



AGENDA

ORDINARY COUNCIL MEETING Tuesday 4 July 2006

Chairman: Mr Garry Payne AM

**Administrators: Mr Garry Payne AM
Ms Lucy Turnbull
Mr Max Boyd AM**

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ITEMS FOR CONSIDERATION OF COUNCIL:

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ABORIGINAL STATEMENT

Administrator Payne acknowledged the Bundjalung Aboriginal Nation with the following statement:

"We wish to recognise the generations of the local Aboriginal people of the Bundjalung Nation who have lived in and derived their physical and spiritual needs from the forests, rivers, lakes and streams of this beautiful valley over many thousands of years as the traditional owners of these lands."

CONFIRMATION OF MINUTES

Minutes of the Ordinary and Confidential Council Meetings held Wednesday 13 June 2006

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Minutes of the Ordinary Council Meeting held Wednesday 13 June 2006 (DW 1409358).
 2. **Confidential Attachment** - Minutes of the Confidential Council Meeting held Wednesday 13 June 2006 (DW 1408980).
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PLANNING COMMITTEE

MATTERS FOR CONSIDERATION UNDER SECTION 79(C)(1) OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979

The following are the matters Council is required to take into consideration under Section 79(C)(1) of the Environmental Planning and Assessment Act 1979 in assessing a development application.

MATTERS FOR CONSIDERATION

1. In determining a development application, a consent authority shall take into consideration such of the following matters as are of relevance to the development the subject of that development application:
 - (a) the provisions of
 - (i) any environmental planning instrument; and
 - (ii) any draft environmental planning instrument that is or has been placed on exhibition and details of which have been notified to the consent authority, and
 - (iii) any development control plan, and
 - (iv) any matters prescribed by the regulations,that apply to the land to which the development application relates,
 - (b) the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts of the locality,
 - (c) the suitability of the site for the development,
 - (d) any submissions made in accordance with this Act or the regulations,
 - (e) the public interest.

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P1 [PD-PC] Development Application DA05/0923 for a Self-Storage Complex and Tweed Local Environmental Plan Amendment at Lot 11 DP 830660, Wommin Bay Road, Chinderah

ORIGIN:

Development Assessment

FILE NO: DA05/0923 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for a self-storage facility on a parcel of land zoned 6(b) Recreation. The development is currently prohibited under Tweed Local Environmental Plan 2000. In accordance with Section 72J of the Environmental Planning and Assessment Act, 1979 the Applicant is seeking an amendment to *Tweed Local Environmental Plan 2000* to facilitate the development by inclusion of the nominated land-use into Schedule 3 i.e. a site-specific permissible use.

The application was originally lodged with Council on 1 August 2005 and incorporated the construction of two main buildings containing two-storey storage units, a small office and associated car parking and loading bay provisions. The applicant was advised that the scale of the proposed development was inappropriate for the subject site.

Subsequent to consultation between the Applicant and Council's Development Assessment Unit on 8 November 2005, amended plans have now been submitted reflecting the negotiations at the meeting. That is, the proposal now incorporates only one two-storey storage unit building with associated car parking and access roadway.

In accordance with Section 72J of the Environmental Planning and Assessment Act 1979 this application seeks an Amendment to the Tweed LEP 2000 in addition to an approval for the structure through the Development Application process. If the Department of Planning approves the preparation of an amendment to the LEP the proposed amendment to Schedule 3 and the development application would be exhibited conjointly. The determination of the development application would be deferred until the LEP amendment was determined by Council and if approved, was formally approved by the Department of Planning.

RECOMMENDATION:

That Council: -

- 1. Supports the proposed development in its amended form and resolves to prepare a draft Tweed Local Environmental Plan 2000, to include Lot 11 DP 830660, Wommin Bay Road, Chinderah into Schedule 3 to enable development for the purposes of a self-storage facility.**

2. Pursuant to Section 54(4) of the Environmental Planning and Assessment Act, 1979 informs the Department of Planning of Council's intention to prepare a draft Local Environmental Plan.
3. Advises the Director General of the Department of Planning that in Council's opinion a Local Environmental Study is not considered required in this instance.

REPORT:

Applicant: Cudgen Leagues Club
Owner: Roads and Traffic Authority NSW Prop Serv
Location: Lot 11 DP 830660 Wommin Bay Road, Chinderah
Zoning: 6(b) Recreation
Cost: \$1,000,000

BACKGROUND:

Council is in receipt of a development application made in accordance with Division 4B of the *Environmental Planning and Assessment Act*, 1979 comprising a proposed and presently prohibited development and a facilitating *Tweed Local Environmental Plan 2000* amendment.

The overall scale of the original design, incorporating two stages of two storey self-storage units within two separate buildings (resulting in a total of 250 sites), was considered to be inappropriate for the subject site. The applicant was advised that a single building would reduce the scale of the development and allow a more acceptable internal road network, as well as provide scope for additional car parking for the Leagues Club.

Subsequent to consultation between the Applicant and Council's Development Assessment Unit on 8 November 2005 amended plans have now been submitted. The amendments reflect the negotiation at the meeting

This report relates to the development as amended.

The subject land is known as Lot 11 DP 830660, Wommin Bay Road, Chinderah. The site is triangular in shape and has an area of approximately 5891m², with frontage to the Pacific Highway along the western boundary. The site has little vegetation, apart from the existing bowling green associated with the Leagues Club in the north eastern portion of the site. There is also an access road traversing the site to the existing Aged Care Facility on the adjoining property to the north. Access to the subject site is only available off Wommin Bay Road, through the Cudgen Leagues Club car park.

The proposed development comprises the erection of a two-storey self-storage facility. The development consists of the following principle elements:-

1. Filling of the land to Tweed Council's adopted design flood level of RL 3.3m AHD;
2. The construction of a two-storey storage building comprising:-
 - 76 storage units, internal lift well and loading bay area on the ground floor; and
 - 76 storage units on the first floor,

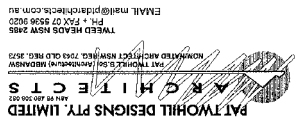
3. The provision of six (6) designated car parking spaces;
4. A building constructed of pre-cast concrete tilt up wall panels on the boundary elevations with colourbond walls and roller doors forming the remainder. The roof is proposed as colourbond roof sheeting;
5. Access road to the adjoining Aged Care Facility to provide wet weather access / egress when Murphys Road is closed due to flooding; and
6. Consolidation of the subject site with the Cudgen Leagues Club land (Lot 3 DP591720).

The total floor area of the proposed facility, not including the loading bay area, is 3264m².

SITE DIAGRAM:



DEVELOPMENT PLANS

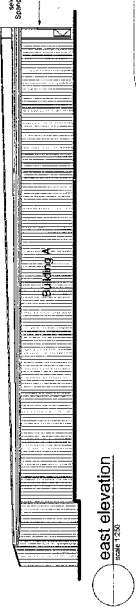
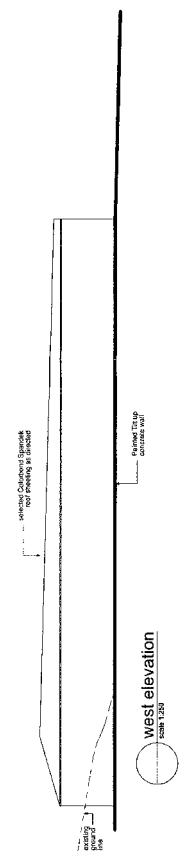
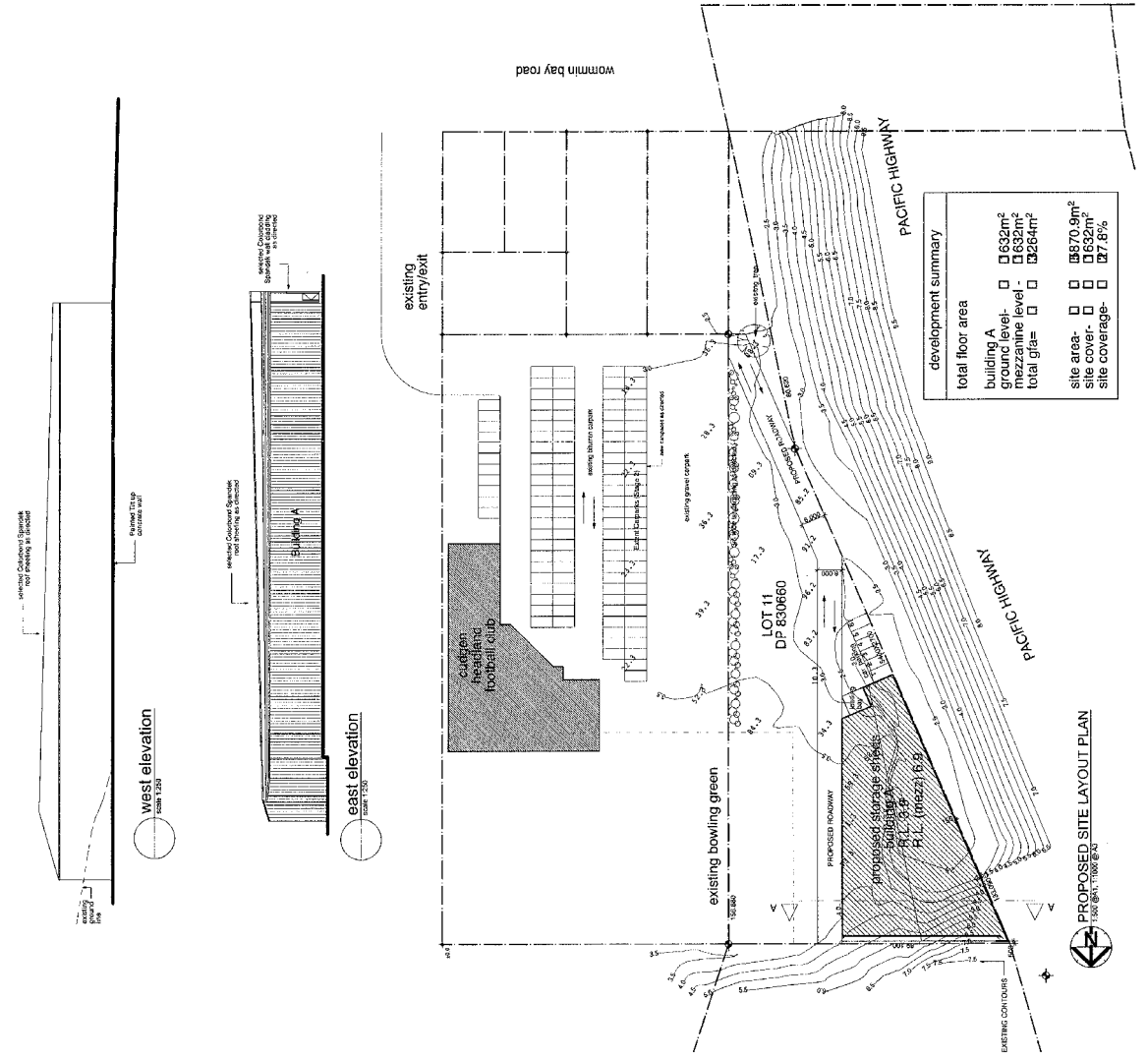


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Table with 2 columns: DATE, AMENDMENTS

scale: AS SHOWN
date: 16/2/06
drawn: A.P.L./D.B.
checked: P.A.L.
prop. no.: 3405372/DA/01

CLIENT: Cudgen Leagues Club
PROJECT: Proposed Storage, Warramin Bay Road Kingscliff NSW



development summary table



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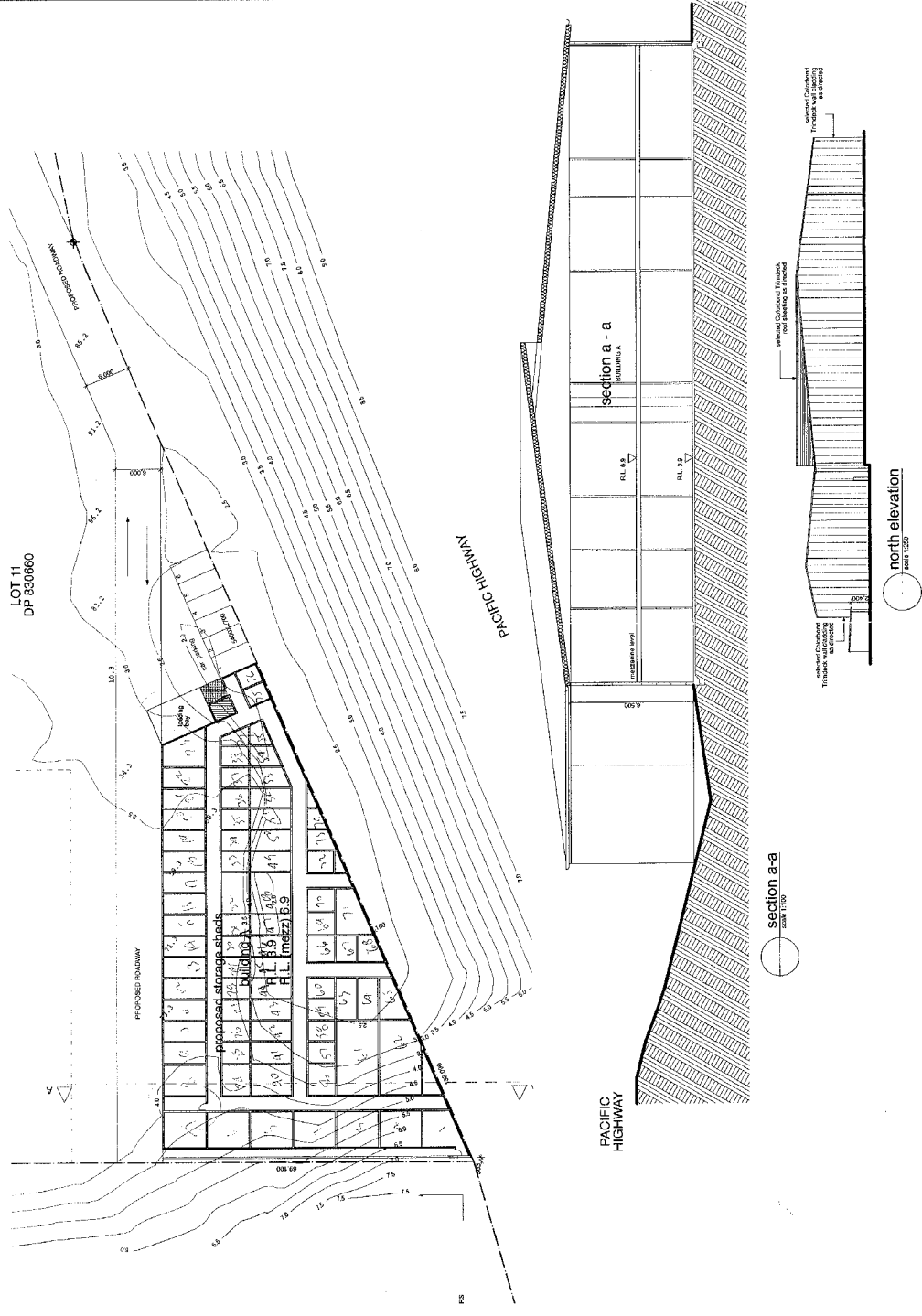


These plans are prepared and issued by the Architect in accordance with the provisions of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000. The Architect is not responsible for the accuracy of the information provided in these plans. The Architect is not responsible for the accuracy of the information provided in these plans. The Architect is not responsible for the accuracy of the information provided in these plans.

DATE	REVISIONS

SCALE: AS SHOWN
 DATE: 10/5/06
 DRAWN BY: [Name]
 CHECKED BY: [Name]
 PROJECT: P & T
 DRAWING NO: 340302/DA/02

CLIENT:
 Cudgen Leagues Cl
PROJECT:
 Proposed Storage -
 Pacific Highway
 Cudgen
 NSW



PLANNING CONSIDERATIONS:

Tweed Local Environmental Plan 2000

The land is zoned 6(b) Recreation under the Tweed LEP 2000. Storage units are a prohibited land-use in the zone. The Statement of Environmental Effects submits that appropriate planning justification for an amendment to the Tweed LEP exists, to enable the proposed development to be carried out on the land. Accordingly the applicant has made provision in the development application, pursuant to Section 72J of Division 4B of the *Environmental Planning and Assessment Act*, 1979 for the re-zoning (Schedule 3 amendment).

LEP Amendment

To enable the erection of a self-storage facility over the subject land Council can amend the Tweed LEP by either:

1. Amend the land-use zoning from 6(b) Recreation to another zoning, i.e. Industrial 4(a), or
2. Include the subject land in Schedule 3 (Development of Specific Sites) of the Tweed LEP, facilitating an exemption from the 6(b) Recreation zoning table for the specifically nominated land-use.

Option 1 is not a preferred option because it would permit a far broader application of the land and could provide for undesirable land-use intensification. Option 2, which is sought by the applicant, would limit development beyond the zoning provisions to that specifically nominated, and which is the preferred option.

The Applicant provides the following justification for the proposed rezoning:

- *The subject site is irregular in shape and as such does not favour its development for sports fields, private recreation or the like.*
- *The proposed use does not impact upon the ability of the surrounding recreational facilities to be utilised for their intended purpose.*
- *The proposed development of the land for a commercial enterprise (which does not rely on a town centre, industrial or road frontage site) represents an economic use of available land.*
- *The zoning of the land would remain 6(b) Recreation which would continue to prohibit other, less compatible developments on the site.*
- *The proposed development does not offend the visual or scenic amenity of the area.*

- *The proposed amendment would be consistent with existing policies, the North Coast REP 1988 and the Tweed Shire 2000+ Strategic Plan.*”

The site is unique by its circumstance in that by virtue of its size, shape, topography and proximity to the Pacific Highway it is not, despite its 6(b) Recreation land-use zoning, suitable for future recreational purposes. In addition, the land's suitability for development generally, is constrained by potential impacts upon adjoining residences and its ingress / egress through the existing Cudgen Leagues Club car park. In this regard, the proposed land-use per-se appears to be a reasonable design response to the further development of the land.

In light of the above and having regard to the 6(b) Recreation zoning of the land, the proposed development, as amended, is considered justified.

North Coast Regional Environmental Plan

The proposal is consistent with both the plan preparation and development control provisions of the NCREP 1988. The relevant clauses are discussed below:

Clause 15 - Development control - wetlands or fishery habitats

The site is not adjacent to a waterway. However, consideration needs to be given to the quality of water leaving the site and its impact on waterways. Management measures during both the construction and operational phase of the development are proposed to ensure that the proposal complies with the provisions of the Tweed Urban Stormwater Quality Management Plan. This is to be assessed by Council's Infrastructure Engineer.

Clause 32A - Plan preparation - coastal lands

This clause applies to land to which the NSW Coastal Policy applies. It requires that a draft LEP shall include provisions which are consistent with the Coastal Policy and it also contains requirements in respect of development in coastal protection zones and on dunes, beaches and headlands.

The proposal and any future Tweed LEP amendment will be consistent with the provisions of this clause.

Clause 32B - Development control - coastal lands

This clause applies to land covered by the NSW Coastal Policy 1997 and the North Coast Design Guidelines.

The North Coast Design Guidelines contains general principles concerning the location of development, particularly in relation to development on headlands and ridges, foreshores, wetlands, rainforests, inland waterways and hilly country. The proposal is consistent with the locational criteria in this document. The remainder of the document primarily concerns itself with residential and tourist development, which is not applicable to this proposal.

Clause 39 - Plan preparation - retail, commercial or business activities

This clause requires that a draft LEP for the establishment of significant retail, commercial or business development is to meet certain locational criteria. The proposal does not constitute "significant" commercial development, and therefore this clause does not apply.

Clause 45A - Plan preparation - flood liable land

The proposal does not seek to 'rezone' the land in a colloquial sense but rather amend the prohibited development schedule through a specific land-use inclusion in Schedule 3 of the Tweed LEP. Under the current zoning and Council policies the land would have to be filled to 3.3m AHD for commercial development, with the applicant to provide further detail in this regard. This is to be assessed by Council's Infrastructure Engineer.

Clause 47 - Plan preparation and development control - principles for commercial and industrial development

The clause requires that before preparing a draft LEP relating to commercial or industrial development, the Council should take into account a number of principles. These principles relate to the maintenance of strong multi-functional town centres, incorporation of flexible provisions in the LEP to enable the development of light service industry near the CBD, and the adequate supply of industrial zoned land.

The proposed rezoning is a facilitating amendment only that seeks to permit the orderly and economic development of a heavily constrained allotment zoned for recreational purposes. The nature of the proposed development is not considered likely to have a detrimental impact upon existing industrial/commercial or town centre areas nor will act as a catalyst for further development. In this regard, the proposal is consistent with these principles.

NSW Coastal Policy 1997

The subject land is affected by the NSW Coastal Policy. The Policy is essentially a strategic management document that sets out *directions to be taken by local and state government in the planning and management of the coast .. (it) is underpinned by a number of principles which are designed to guide decision making and to clarify the basic philosophy of the goals.*

The Policy is required to be given effect, where necessary, through specific planning instruments. This application does not raise any inconsistencies in respect of those provisions.

State Environmental Planning Policy No.71 – Coastal Protection

The site is within the coastal zone and therefore the provisions of the Policy apply. When preparing a draft local environmental plan and determining a development application, the Council as consent authority must take into consideration the matters outlined in Part 2 of the Policy. With respect to those matters of relevance the Applicant provides:

- “
- *the site is well removed from natural waterways,*
- *the proposal does not generate the need to provide any new public access to, or along, the foreshore,*
- *the development would not be visible from the foreshore,*
- *the site is not affected by coastal processes,*
- *the development would not adversely impact on flora and fauna, and*
- *there are no known heritage items on, or within close proximity of, the site.”*

With respect to the matters in Part 4 of the Policy, it is commented that:

- *The proposal would not affect the right of access of the public to or along the foreshore.*
- *Effluent would be disposed of by a reticulated system.*
- *The development would not discharge untreated stormwater to the sea or creek.*

It is contended that the proposal is consistent with the aims of the Policy, this view is concurred with.

Section 117 Directions

Section 117 Direction No. 7 Commercial and Retail Development along the Pacific Highway, North Coast is applicable to the proposal. Although the proposed storage units adjoin the Pacific Highway Road Reserve, they do not rely upon this frontage for access or egress to the site. Access to the property will be via Wommin Bay Road, and it is not considered that the proposal will impact upon the efficiency or the safety of the highway. In terms of land use, the proposed storage unit development is consistent with the highway's function as a major traffic corridor. In this regard, the traffic noise, fumes and the like which are associated with the highway, are not expected to impact upon the development. It is considered that the utilisation of this portion of land, which is no longer required by the RTA for the highway, is consistent with the objectives as they relate to this direction.

Section 117 Direction No. 14 Farmland of State and Regional Significance on the NSW Far North Coast applies to farmland within the Tweed Shire. A review of plans and maps associated with this direction indicate that the land is not identified as Regionally or State Significant Farmland. Therefore, the proposal is considered to be consistent with the provisions of this direction.

LEP Pro forma – Category 1: Spot Rezoning

<p>Will the LEP be compatible with agreed State and Regional Strategic Direction for development in the area (eg land release, strategic corridors, development within 800m of a transit node)?</p>	<p>Yes. The draft LEP does not propose to rezone the land. The purpose is to address the permissibility of self-storage units within the current 6(b) zone. It does not create any issues of strategic significance in a state or regional context.</p>
<p>Will the LEP implement studies and strategic work consistent with State and Regional policies and Ministerial (s.117 Directions)?</p>	<p>The draft LEP is considered to be consistent with the relevant Section 117 Directions (as noted above) and State and Regional policies.</p>
<p>Is the LEP located in a global/regional city strategic centre or corridor nominated within the Metropolitan Strategy or other regional/subregional strategy?</p>	<p>No.</p>
<p>Will the LEP facilitate a permanent employment generating activity or result in a loss of employment lands?</p>	<p>The draft LEP will facilitate the generation of permanent employment and it is expected that the storage facility will result in a net increase in employment of about two (2) to three (3) jobs, in addition to employment generated during the construction phase.</p>
<p>Will the LEP be compatible/complimentary with surrounding land uses?</p>	<p>Surrounding land uses include the Pacific Highway, sporting facilities and clubhouse, an aged care facility and low-density housing. Noise, fumes, odour and the like generated from surrounding development are not expected to affect the proposed development. Likewise, it is not considered that the proposal will generate any impacts, which will have a detrimental affect on surrounding land uses.</p>
<p>Is the LEP likely to create a precedent; or create or change the expectations of the landowner or other landholders?</p>	<p>As the subject site is located adjacent to the Pacific Highway, but within an existing urban setting, it is considered that the draft LEP is unlikely to create a precedent or affect the expectations of the landowner or other landholders in the surrounding area.</p>
<p>Will the LEP deal with a deferred matter in an existing LEP?</p>	<p>No.</p>
<p>Have the cumulative effects of other spot rezoning proposals been considered? What was the outcome of these considerations?</p>	<p>There are no other known spot rezoning proposals in the locality.</p>

Acid Sulfate Soils

The land is identified as Class 3 on Council's Acid Sulfate Soil Planning Map. The site appears to have been subject to previous disturbances and filling. As the proposal would incorporate additional filling, and it is unlikely that Acid Sulfate Soils would be disturbed, further investigation for the presence of acid sulfate soils is not considered necessary at this stage. Additional information yet to be provided by the applicant in relation to cut and fill will determine if further ASS investigation will be necessary.

Designated Roads

Although the subject site has frontage to the Pacific Highway, which is a designated road, access off the Pacific Highway is not proposed. Access to the site is only available through the existing road network, off Wommin Bay Road via the existing car park associated with the Leagues Club. Therefore, Clause 22 of the Tweed LEP 2000 is considered to be satisfied in that matters relating to traffic safety and efficiency, traffic noise and scenic quality have been satisfactorily addressed. It should be noted that the Roads and Traffic Authority are yet to provide comment on the proposed development.

Stormwater

The original proposal for this site raised several engineering issues in relation to stormwater management and the proposed use of the existing stormwater drainage system within the road reserve of the Pacific Highway. The applicant has advised that additional supporting information is currently being prepared, including consent from the Roads & Traffic Authority for use of the existing stormwater easement. Council's Infrastructure Engineer will provide comment in this regard upon receipt of the additional information.

Earthworks

As the subject site is flood liable, any proposed development will require the site to be filled to enable the minimum floor level of the all storage units to be above the design flood level. The applicant has been requested to provide a geotechnical assessment of the site, incorporating the proposed cut and fill earthworks for the development. Council's Infrastructure Engineer will provide comment in this regard upon receipt of the additional information.

Bushfire Hazard

The subject site is identified as being located within a bushfire prone area. Subsequently, the applicant has prepared a bushfire assessment report, which will be forwarded to the Local Branch of the Rural Fire Service for comment.

Access & Traffic

As the subject site is land locked, and access not available from the Pacific Highway, access is only available via Wommin Bay Road and Sand Street and then over private land owned by the Leagues Club, which is currently used for car parking purposes. Council's Development Assessment Engineer will provide comment with regard to the proposed road network and parking provisions for the amended design. It should be noted that the proposed development incorporates a new access road through to the adjoining aged care facility to the north. The purpose of this road is to provide emergency access only or when access to Murphys Road is flooded and not trafficable. The impact of this proposed road upon the existing road network will be incorporated into Council's assessment of the amended design.

Noise

The self-storage facility is proposed to operate between the hours of 7.00am and 8.00pm, seven days a week. The impact of the proposal upon the neighbouring residences is to be assessed by Council's Environment and Health Service Unit. Preliminary assessment of the proposal indicates that noise impacts, due to mainly the movement of vehicles, are likely to be minimal given the proximity of the Pacific Highway to the west of the subject site.

OPTIONS:

Having regard to the issues raised in this report it is considered that the most appropriate response to the proposal is contained in the options provided below.

1. (i). Council support the proposed development in its amended form and resolve to prepare a draft Tweed Local Environmental Plan 2000, to include Lot 11 DP 830660, Wommin Bay Road, Chinderah into Schedule 3 to enable development for the purposes of a self-storage facility, and
- (ii) Pursuant to Section 54(4) of the Environmental Planning and Assessment Act, 1979 inform the Department of Planning of Council's intention to prepare a draft Local Environmental Plan, and
- (iii) Advise the Director General of the Department of Planning that in Council's opinion a Local Environmental Study is not considered required, in this instance, or
2. Resolve not to support the proposed rezoning to facilitate a self-storage facility over Lot 11 DP 830660, Wommin Bay Road, Chinderah.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

If Council determines not to resolve the draft Plan the applicant does not have a right to appeal in the Land & Environment Court.

POLICY IMPLICATIONS:

Amending Schedule 3 to Tweed LEP would be based on a merit assessment in accordance with the provisions of the Act and would therefore not set a precedent or have any unforeseen policy implications.

CONCLUSION:

Having regard to matters raised in this report the construction of the proposed facility is considered to be reasonable in the circumstances of the case. As Tweed LEP 2000 does not have provision to enable the approval of the facility it is necessary that the subject land be included in Schedule 3 of the LEP in order for the proposal to proceed.

In addition to the above, Council is requested to seek the dispensation of the Director General of Planning NSW for the necessity to prepare a Local Environmental Study having regard to the circumstances of this case and in light of the existing environmental characteristics of the subject land and its locality.

On balance the proposed facilitating LEP amendment and dispensation of a Local Environmental Study is considered satisfactory.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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P2 [PD-PC] Section 96 Application DA02/1147.03 for an Amendment to Development Consent DA02/1147 for Demolition of Warehouse, Construction of Commercial & Residential Premises at Lot 9 DP 17554, Sands Street Tweed Heads

ORIGIN:

Development Assessment

FILE NO: DA02/1147 Pt3

SUMMARY OF REPORT:

Council is in receipt of an application to amend a development consent that was granted by Council in December 2002 for the demolition of a warehouse and construction of commercial and 11 unit residential premises in Sands Street, Tweed Heads. The applicant is seeking to modify the internal layout, which results in one additional residential unit, as well as some minor external amendments.

The original application was recommended for refusal by Council's Development Assessment Unit, but was subsequently approved by Council. One of the reasons for refusal was the proposal's non-compliance with Development Control Plan No. 2 – Site Access and Parking Code.

The applicant has amended the design of the proposed modifications in an effort to minimise any non-compliance with DCP 2. The proposed amendments have been assessed in detail with regard to Council's car parking requirements and the amended development is recommended for approval.

RECOMMENDATION:

That Section 96 Application DA02/1147.03 for an amendment to Development Consent DA02/1147 for demolition of warehouse, construction of commercial & residential premises at Lot 9 DP 17554, Sands Street Tweed Heads be approved subject to the following amended conditions: -

1. Condition No. 1A be AMENDED to read:

'The development shall be completed in accordance with *Dwg's: P404 WD02(Rev F); WD03(Rev E); WD04(Rev D); WD05(Rev D); WD06(Rev E); WD07(Rev E); WD08(Rev E); and WD09(Rev E) prepared by Glen Petersen Architect Pty Ltd and dated May 2006* and the Statement of Environmental Effects, except where varied by these conditions.'

2. Condition No. 9A be AMENDED to read:

'Section 94 Contributions

- (i) Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges are valid for the date of issue of Section 96 application DA02/1147.03 only and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

- a. Tweed Road Contribution Plan: \$7,102
S94 Plan No. 4 (Version 4.0)
(Sector1_4 Tweed Heads)

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$\text{\$Con}_{\text{TRCP - Heavy}}$ heavy haulage contribution

and:

Prod. projected demand for extractive material to be hauled to the site over life of project in tones

Dist. average haulage distance of product on Shire roads (trip one way)

	\$Unit	the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)	
	Admin.	Administration component - 5% - see Section 6.5	
b.	Open Space (Structured): S94 Plan No. 5		<u>\$6,121</u>
c.	Open Space (Casual): S94 Plan No. 5		<u>\$1,309</u>
d.	Shirewide Library Facilities: S94 Plan No. 11		<u>\$5,399</u>
e.	Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13		<u>\$1,084</u>
f.	Emergency Facilities (Surf Lifesaving) S94 Plan No. 16		<u>\$1,673</u>
g.	Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18		<u>\$11,576.28</u>
h.	Cycleways S94 Plan No. 22		<u>\$2,770</u>
i.	<u>Shirewide Car Parking</u> <u>S94 Plan No. 23</u>		<u>\$34,980</u>
k.	Regional Open Space (Structured) S94 Plan No. 26		<u>\$18,236</u>
l.	Regional Open Space (Casual) S94 Plan No. 26		<u>\$6,691</u>
m.	<u>Tweed Heads Master Plan:</u> <u>S94 Plan No. 27.</u>		<u>\$1,047.00</u>

3. Condition No. 10A be AMENDED to read:

‘A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 79H of the Environmental Planning and Assessment Regulations, 1994, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

<u>Water DSP4: 7.415 ET @ \$4598</u>	<u>\$34,094</u>
<u>Sewer Tweed Heads: 7.835 ET @ \$6688</u>	<u>\$52,400</u>

These charges are valid for the date of issue of Section 96 application DA02/1147.03 only and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.'

4. The following new DUR condition is to be ADDED as Conditions 42A:

'The provision of nineteen (19) off street car parking spaces. A minimum of five (5) unburdened spaces shall be marked as visitor spaces and maintained accordingly. In addition, one (1) combined car wash bay / delivery bay shall be marked and maintained accordingly. The layout and construction standards to be in accordance with Development Control Plan No. 2 - Parking Controls.'

REPORT:

Applicant: Kim Kennedy & Associates
Owner: T.H.E. Home Company Pty Limited
Location: Lot 9 DP 17554, Sands Street Tweed Heads
Zoning: 3(a) Sub-Regional Business

BACKGROUND:

Development Consent for the demolition of a warehouse and construction of commercial and 11 unit residential premises was approved 5 December 2002. An application to modify the consent was lodged with Council on 15 November 2005.

The original application was recommended for refusal by Council's Development Assessment Unit, but was subsequently approved by Council. One of the reasons for refusal was the proposal's non-compliance with Development Control Plan No. 2 – Site Access and Parking Code. The non-compliance was the inability to provide a separate car wash bay and delivery space for the commercial component of the development. The approved development incorporates a combined visitor space / car wash bay and a combined visitor space / delivery bay at the entrance to the car park area.

The initial amendments to Development Consent DA02/1147 were not considered to comply with the requirements for on-site parking for residential and commercial development under Development Control Plan 2 – Site Access and Parking Code, and the applicant was advised that the application would not be supported. Accordingly, the applicant further amended the design of the proposal so that only one (1) additional residential unit was proposed, and the development is now considered to largely comply with Council's parking requirements.

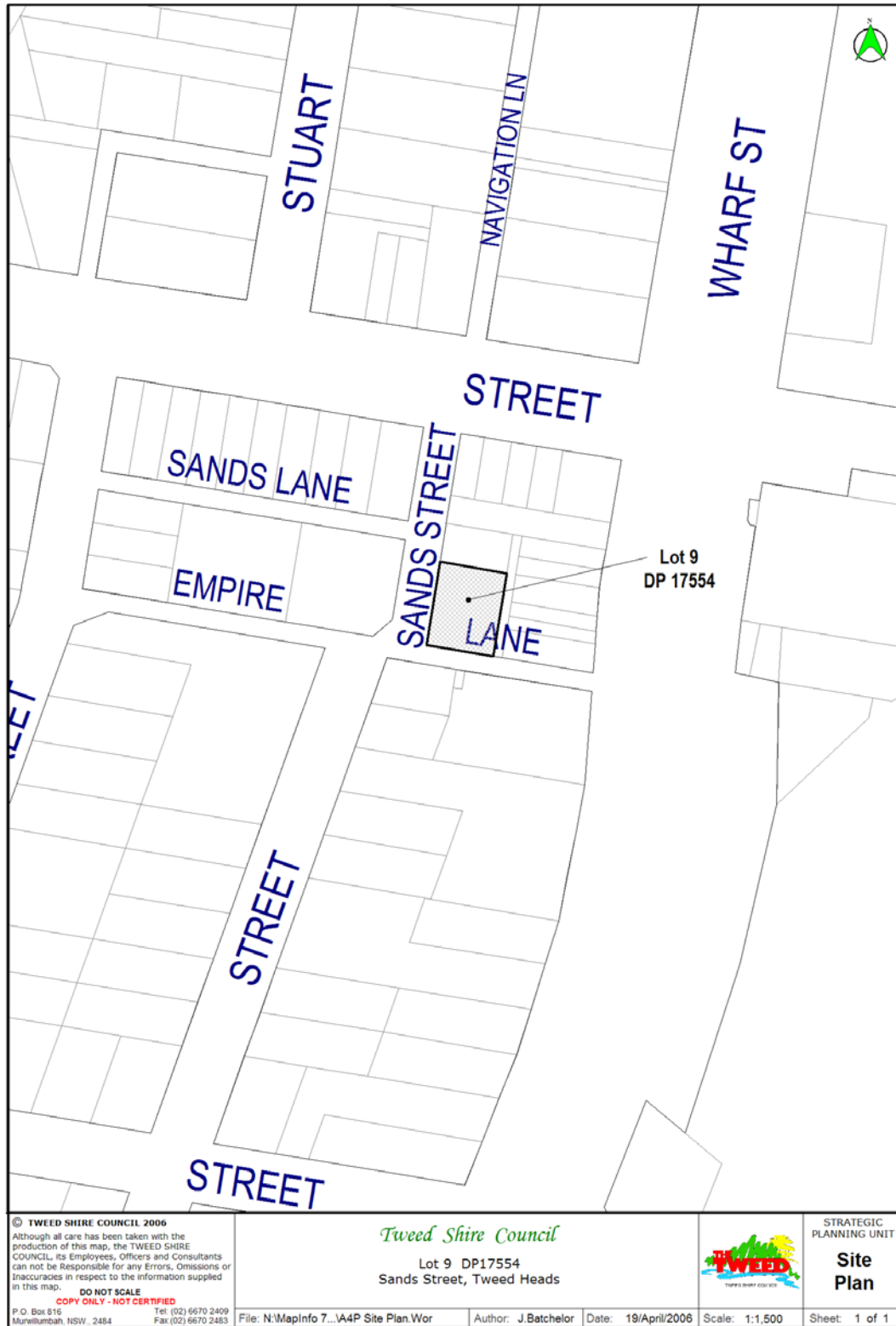
Proposed Development

The applicant has proposed the following modifications:

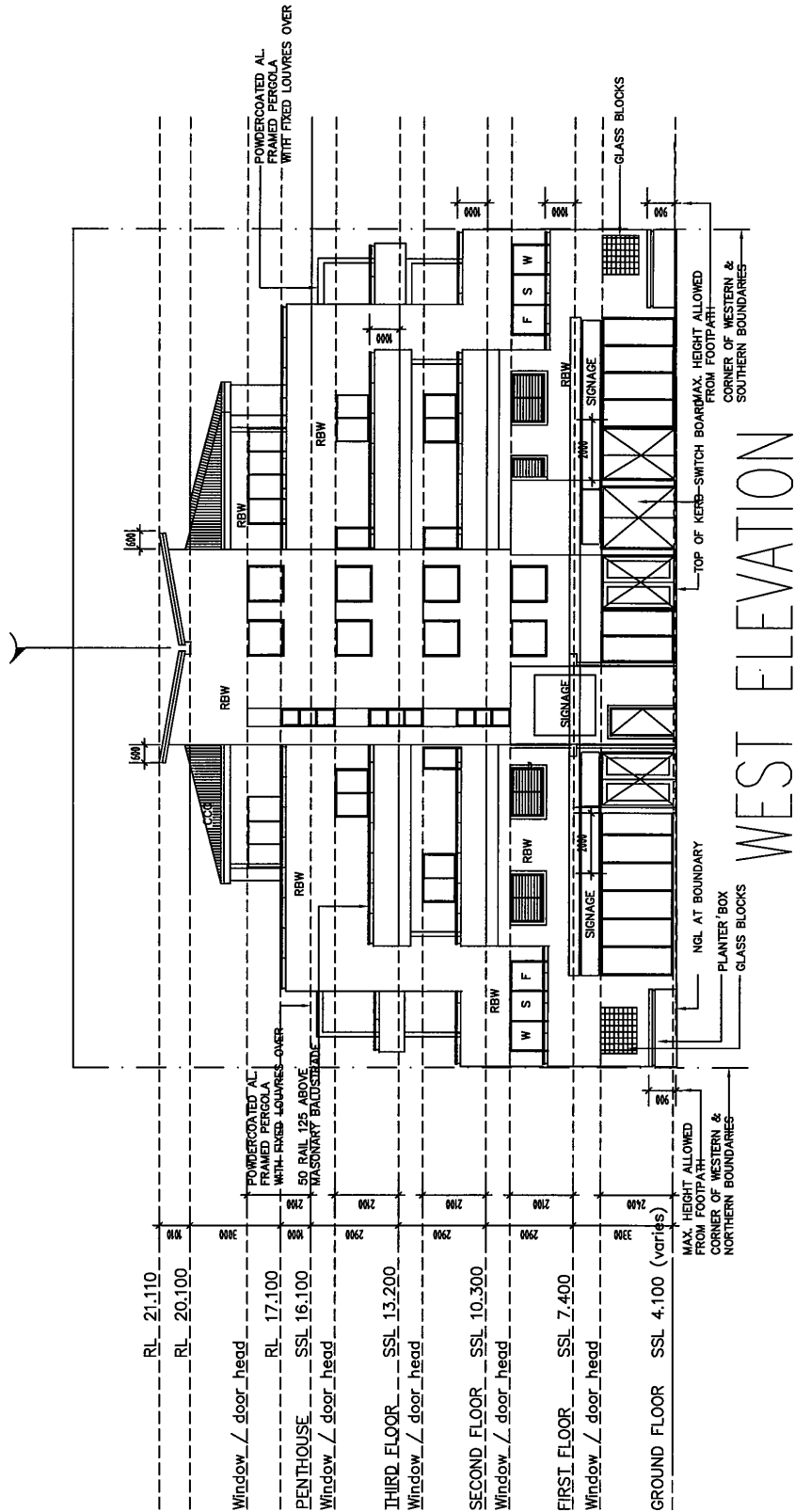
- *The original 3-bedroom unit on the second floor has been amended to now provide 1 x 2-bedroom unit and 1 x 1-bedroom unit. Although the total number of bedrooms remains unchanged, the number of residential units increases by one to a total of twelve (12) units;*
- *The addition of north and south facing balconies to Level 3 being in a similar location but smaller than the balconies presently approved on Level 2;*
- *The internal design of each unit has been amended slightly to provide a better layout for each of the residential units;*
- *The four eastern balconies on Levels 2 & 3 have been removed, reducing the external extent of the building;*
- *A small reduction in the ground floor commercial floor space to address BCA requirements;*

- *The central portion of the light well on Levels 1, 2 & 3 has been reduced for safety/security reasons. Although this has slightly increased the available internal floor area on these levels, the external appearance remains the same;*
- *Replacing planter boxes with feature potted plants to eliminate a common cause of future problems for residents and unsightly building appearance (all planter box waterproofing methods seem to break down after a period and leakage occurs). Larger more decorative landscaping is proposed;*
- *The addition of shading devices to the north facing windows of Level 3; and*
- *The reduction in light wells has allowed a better roof design. Whilst keeping the architectural feature on the western face of the building fronting Sand Street, the remainder of the roof has been amended to improve the architectural appearance without increasing the overall height.*

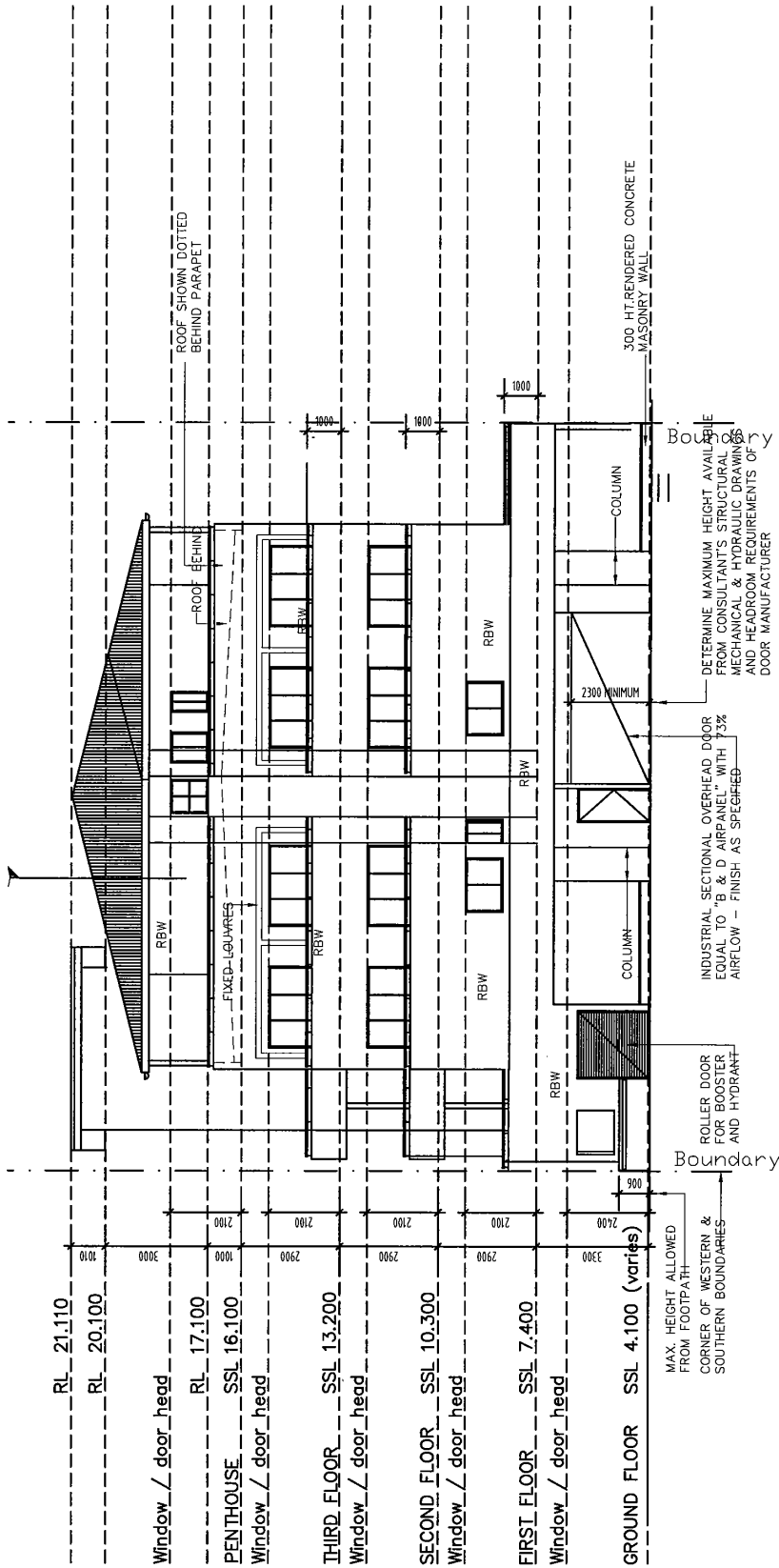
SITE DIAGRAM:



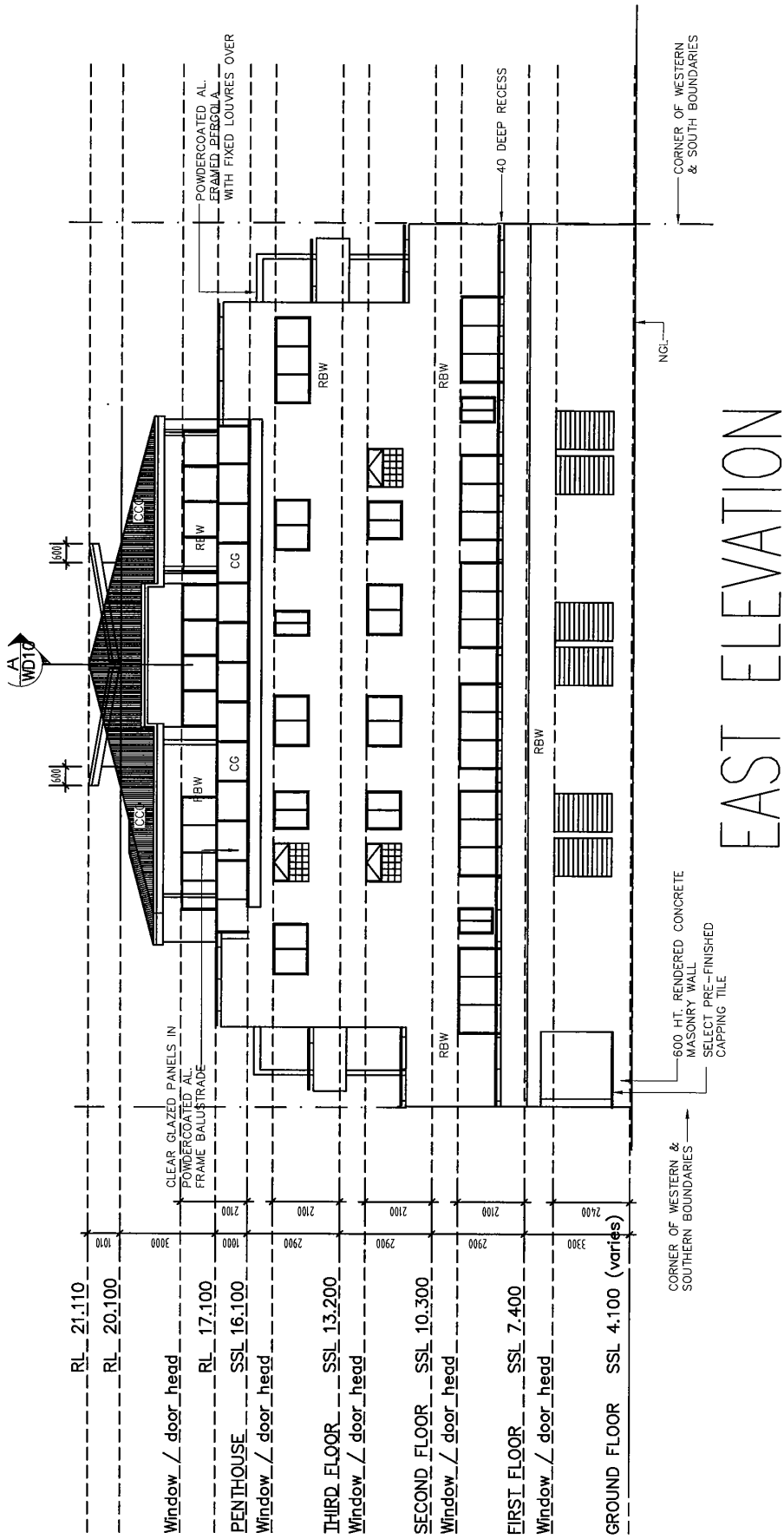
ELEVATIONS:



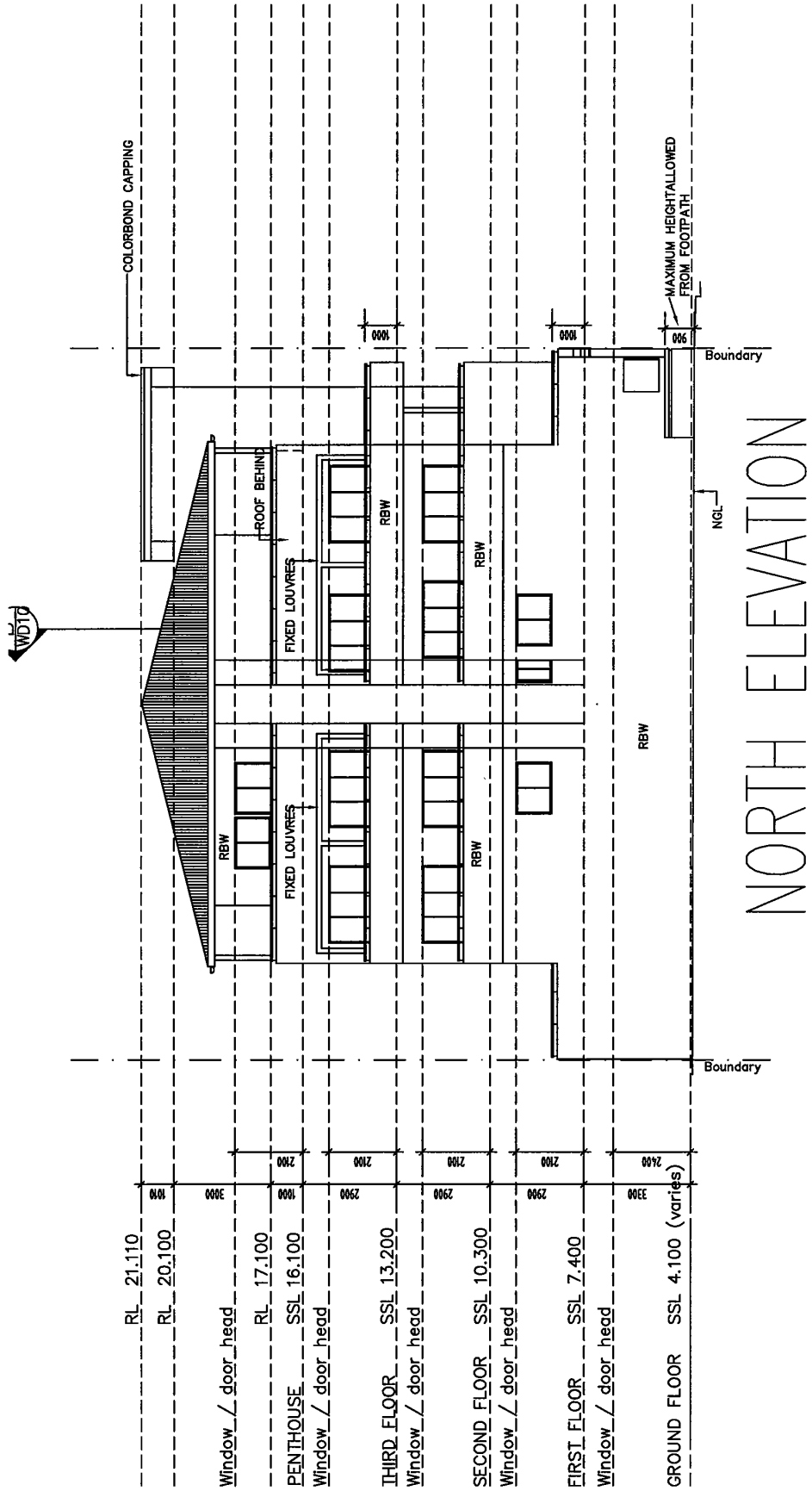
WEST ELEVATION



SOUTH ELEVATION



EAST ELEVATION



NORTH ELEVATION

ASSESSMENT UNDER SECTION 96 OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

Substantially the Same Development

The proposed modifications generally incorporate mainly minor internal amendments, along with some minor external changes. Although the proposed amendments to the originally approved development are relatively minor, the proposed internal layout changes results in changes to the car parking requirements for the development. The impacts of such changes are discussed in detail below.

Likely Environmental Impact

Car Parking Provisions

This assessment has primarily dealt with the car parking impact, resulting from the proposed amendments. The proposed modifications result in one (1) additional unit, creating a total of twelve (12) residential units within the development. Under Development Control Plan No. 2 – Site Access and Parking Code, 12 residential units generate the need for **18** spaces, incorporating 4.5 visitor parking spaces. The commercial component of the development requires 2 additional spaces. DCP 2 also requires a further 2 spaces; one for delivery purposes and a second for a car wash bay. This results in a total of **22** spaces being required (see table below). The proposed development provides **19** on-site spaces.

Use	Requirement under DCP 2	Proposed Development
Residential Dwellings (12 Units)	1.5 per dwelling (incl 25% for visitors) = 18 spaces with 4.5 (say 5) spaces marked for visitors	15 residential, 1 disabled car park and 3 visitor spaces are proposed within the ground level car park. See comments below.
Commercial Premises (2 premises totalling 71sqm in floor area)	Customer Parking (71/100 x 3.5) x 30% = 0.75 spaces Staff Parking (Adopt 2 staff per premises) = (2 staff x 2 premises x 0.5) x 80% = 1.6 spaces Total required = 2.35 (say 2) spaces	The ground floor car-parking layout does not provide for customer parking provisions. See comments below.
Delivery Space Car Wash Bay	1 space 1 space	The development proposes 1 combined visitor/car wash bay space and 1 combined visitor/ delivery space – does not comply with DCP 2 requirements. See comments below.
Total	22 spaces	19 spaces

The applicant's original Section 96 application to modify Development Consent DA02/1147 was based on 13 residential units rather than 12. This created a need for a total of 24 on-site spaces, with the applicant only able to provide 19 on-site parking spaces. In order to justify such a variation to the DCP 2 requirements, the applicant provided a detailed submission relying upon RTA Guidelines as well as results from an analysis of the 2001 Census data in support of a lower car parking requirement. After a thorough assessment of the proposed development, the applicant was advised that the proposed modifications for 13 units was not going to be supported by Council's Development Assessment Unit. Such a reduction to the parking requirements in the Tweed CBD area was considered likely to create an undesirable precedent, which was not in the public interest.

In light of this advice, the applicant amended the design of the residential component of the development to that of the current proposal for 12 units. In doing so, some variations in terms of parking requirements for the commercial component of the development and delivery bay / car wash bay provisions, are considered satisfactory.

Delivery Bay / Car Wash Bay

The proposed development incorporates a combined visitor space / delivery bay and combined visitor space / car wash bay. The applicant's argument that two separate spaces for car wash bay and delivery bay provisions are excessive for the proposed development is acknowledged. A combined car wash bay / delivery space is considered to be more appropriate.

This would allow the residential and visitor spaces to be kept clear. Given the small component of commercial premises within the development (operating during the week) and the majority of residents washing their vehicles on a weekend, it would seem acceptable to combine the car wash bay with the delivery bay, rather than require separate spaces in such a limited area. This would reduce the required car spaces to **21**.

Car Parking Credit

The applicant originally submitted that credit should be given for the four (4) existing off-site parking spaces adjacent to the subject site, located along Sand Street, stating that... *'the previous uses of the site have involved a parking requirement on-site for at least 4 parking spaces. These were not provided on-site but suitable arrangements were made with Council for the provision of such parking off-site'*.

Council's records indicate that the only previous approval for the subject site was for a bulk store, approved by Council on 17 February 1965. The consent issued for the establishment of the bulk store was approved without mention of any car parking requirements, nor did the approved plans indicate the provision for any car parking.

If the previous use had paid contributions for the four spaces, an opportunity would exist for the use of the off-site spaces as credit spaces for the subject site. However, this would only apply to the commercial component of the proposed development. In any event, Council records do not indicate that contributions were paid for the four spaces and the applicant has not provided any evidence to substantiate the claims that such provisions were made.

Given the limited amount of public car parking in the CBD area, it is not considered appropriate to allow the proposed development use of any of the off-site spaces, in terms of meeting the DCP 2 requirements for residential development. Council has not supported this type of parking space credit use in the past. To do so now would set an undesirable precedent, and further exacerbate the parking shortage in the Tweed CBD area. In any event, Council records do not indicate that the four on-street parking spaces are linked to the subject site in any way. Therefore, the use of these spaces as credit is not supported.

Cash Contributions

As the subject site is located within the Tweed Heads CBD area nominated within DCP 2, there is an opportunity for the applicant to pay a cash contribution (pursuant to the provisions of Section 94 Plan No 23 – Off-Site Parking) in lieu of supplying the two spaces required for customer and staff parking, in relation to the commercial component of the development.

This would further reduce the on-site car parking requirements to that of **19** spaces, which can be provided in the development. The applicant has continued to argue against Council's recommendation to require cash contributions for any spaces, stating that... *'as the site retains the credit for parking spaces, Council would be double dipping to again charge for off-site spaces already paid for.'*

As noted above, there is no record of the four on-street spaces being linked to the subject site, nor are there any records in relation to cash contributions for such an arrangement. Therefore, it is recommended that the applicant be required to pay cash contributions (pursuant to the provisions of Section 94 Plan No 23 – Off-Site Parking) in lieu of supplying the two spaces required for customer and staff parking, in relation to the commercial component of the development.

Car Parking Arrangement

Although the ground floor car parking arrangement is not desirable in terms of manoeuvrability, the proposal has provided the minimum number of residential spaces on-site. As noted above, the car wash bay / delivery space is to be combined and the applicant required to pay cash contributions in lieu of the required commercial component.

The applicant has proposed a disabled car space (allocated to Unit 10) within the area outside the security gate. This location seems reasonable in order to provide a wider, more accessible space in accordance with Australian Standard requirements. This leaves only 2 visitor spaces within the non security area of the car park. Although this arrangement is not desirable in that the remaining 3 visitor spaces (as required by DCP 2) will need to be located within the security portion of the car park.

Given that the proposed layout is similar to that already approved for the original application, it is considered reasonable to accept the proposed car parking arrangement as being satisfactory for the purposes of DCP 2 provisions.

Conclusion

As detailed above, the proposed modifications are considered to be satisfactory in terms of compliance with the provisions of DCP 2. With regard to the overall proposed interior and exterior modifications, they too are considered to be acceptable in that they result in little change to the appearance of the proposal originally approved. It appears that all proposed changes are minor amendments with little or no impact resulting on the surrounding environment.

Contributions

The applicant has requested that... *'as the use of the subject site was a single residential dwelling ... any s94 and s64 contributions for the proposed development take into account the former single dwelling that occupied the site and provide a credit for this former use'*.

An assessment of the calculation of developer contributions applied to the originally approved development (DA02/1147) indicates that credit has already been given for the previous use on the site, that being a warehouse (bulk store). Therefore, the applicant's request for further credit is not supported. Current Council contribution rates have been applied for the additional one (1) residential unit. These fees have been added to the original fees, noting that the rates and indeed contribution plans have been amended since the original fees were calculated.

Consideration of Submissions

The proposed modifications were not required to be advertised or notified. As such, no submissions were received.

Public interest

The proposed modifications to Development Consent DA02/1147 are considered to be acceptable in terms of public interest. Given the majority of the required car parking provisions are to be provided on-site, with the applicant being required to pay cash contributions in lieu of the two car spaces for the commercial component of the development, the proposed modifications are not considered to result in a negative impact upon the existing public car parking provisions in the surrounding area.

OPTIONS:

1. Approve the proposed modifications that result in one additional unit, giving a total of twelve (12) residential units, subject to the recommended amendments to Development Consent DA02/1147.
2. Refuse the application, leaving the applicant with the existing approval for a mixed-use development incorporating only eleven (11) residential units.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has a right of appeal if dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

Having regard for all of the issues raised by the proposed amendments to the previously approved mixed-use development, the proposed modifications are considered to be acceptable. The amendments generally incorporate mainly minor internal and external changes to the original design. As noted above, a detailed assessment has been conducted with regard to the car parking impacts as a result of the additional residential unit. As such, it is considered that the proposal warrants approval, subject to the recommended amendments to Development Consent DA02/1147.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

P3 [PD-PC] Development Application DA05/0881 for Additions & Alterations to Church at Lot 35, 36, 37, 38, 39 DP 249808, No. 22-30 Sand Street, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA05/0881 Pt2

SUMMARY OF REPORT:

An application has been lodged which seeks consent to alter and make additions to Kingscliff Christian Church. The proposal involves the construction of a 284 seat auditorium and car park, alterations and additions to the existing building including a café, crèche, meeting rooms and an office area and a children's church room. The proposal also involves the conversion of a dwelling house into an office and consulting rooms which will be used as the primary office/administration centre for the Church. All the proposed uses are consistent with the definition of a public place of worship.

The site currently occupied by a building which is used as a place of public worship and a dwelling house. The site has frontage to Sand Street is generally flat and clear of vegetation.

The proposed place of public worship is consistent with the Tweed Local Environmental Plan 2000, State Environmental Planning Policy No. 11 and State Environmental Planning Policy No. 64. The proposed development is generally consistent with Development Control Plan No. 2 – Site Access and Parking Code.

Three (3) submissions have been received to date objecting to the proposed development. The main issue raised in the submissions included noise and car parking. It should be noted that the plans were amended after the exhibition period of the development application resulting in the deletion of all on-street car parking.

RECOMMENDATION:

That Development Application DA05/0881 for additions & alterations to the church at Lot 35, 36, 37, 38, 39 DP 249808, No. 22-30 Sand Street, Kingscliff be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Drawing Nos:

- SD101, Revision P4, 'Site Plan' prepared by Fulton, Trotter and Partners Architects and dated 13/04/2006,
- SD 104, Revision P3, 'Basement Floor Plan' prepared by Fulton, Trotter and Partners Architects and dated 23/03/2006,
- SD102, Revision P4, 'Ground Floor Plan' prepared by Fulton, Trotter and Partners Architects and dated 13/04/2006,
- SD103, Revision P3, 'Mezzanine Floor Plan' prepared by Fulton, Trotter and Partners Architects and dated 23/03/2006,
- SD105, Revision P3, 'Roof Plan' prepared by Fulton, Trotter and Partners Architects and dated 23/03/2006,
- SD106, Revision P3, 'Indicative Elevations and Sections' prepared by Fulton, Trotter and Partners Architects and dated 23/03/2006,
- Geotechnical Investigation Report and Acid Sulfate Soils and Dewatering Management Report prepared by Bordertech Geotechnical Engineering Services, except where varied by the conditions of this consent.

[GEN0005]

2. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[GEN0045]

3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

4. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

5. The crèche kitchen shall be of commercial grade construction complying with AS4674 (no cavity walls etc).

[GENNS01]

6. The premise shall be constructed and operated in accordance with the Environmental Noise Impact Report, TTM Consulting, 15 December 2005 (refer Parts 7.2.1 and 7.2.2 of the Report). Noise levels of all plant and activities shall meet the Assessment Criteria specified under Part 5.0 of the Report and acoustic barriers shall be constructed as per sketch plan 1.

[GENNS02]

7. Any premises used for the storage, preparation or sale of food shall comply with the *Food Act 2003* and Australian Standard *AS4674 - Design, Construction and Fitout of Food Premises*.
[GENNS03]
8. All mechanical ventilation shall comply with *AS1668.2 Ventilation Requirements*.
[GENNS04]
9. Advertising structures/signs to be the subject of a separate development application, where statutorily required.
[GEN0065]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

10. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.

All fill and cut batters shall be maintained wholly within the subject land. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

11. The site is to be filled to a minimum level of RL 3.3m AHD. The fill is to be retained by perimeter structural walls with concrete lined perimeter drainage or other approved treatment. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimizing the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0675]

12. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matters:
 - (a) The habitable area of the building is to be at a level no less than 300mm above the design flood level of RL 3.6m AHD.
 - (b) All building materials used below Council's design flood level must not be susceptible to water damage.
 - (c) Subject to the requirements of the local electricity supply authority, all electrical wiring, outlets, switches etc. should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level should to suitably treated to withstand continuous submergence in water.

- (d) Define adequate provision for the flood free storage for goods and equipment susceptible to water damage. [PCC0705]
13. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -
- (a) The provision of adequate vehicular access in accordance with Council's 'Vehicular Access to Property Construction Specification' pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the General Manager or his delegate.
- (b) The driveway is to be constructed 6 metres wide at the property boundary and 8 metres wide at the kerb line with a uniform taper.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- Road works/furnishings
 - Stormwater drainage
 - Water and sewerage works
 - Sediment and erosion control plans
 - Location of all services/conduits
 - Traffic control plan
- [PCC0895]
14. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems. [PCC1105]

15. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC1145]

16. In accordance with Section 68 of the Local Government Act, 1993, any premises proposing to discharge into Councils sewerage system a waste water other than domestic sewage, shall submit to Council a completed application for a Trade Waste Licence. This application is to be approved by Tweed Shire Council PRIOR to the issuing of a Construction Certificate to discharge to Councils sewerage system.

[PCC1255]

17. Pursuant to Section 68 of the Local Government Act, 1993 an approved pre-treatment device (eg. Oil/grease traps, separators, etc) shall be installed in accordance with Tweed Shire Councils Trade Waste Policy. Submission of detailed hydraulic plans and specifications indicating size, type, location and drainage installations in accordance with AS 3500 shall be submitted to Council for approval.

[PCC1265]

18. Three copies of detailed hydraulic plans shall be submitted with all trade waste applications which indicate size, type and location of pre-treatment devices. All plumbing and drainage installations to these devices shall comply with AS3500.

[PCC1275]

19. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

20. Prior to issue of the Construction Certificate a report shall be provided to Council by a suitably qualified person which specifies requirements for installation and noise amelioration of plant. After installation and prior to operation compliance testing shall be conducted and a validation statement provided to Council. All plant shall comply with that report.

[PCCNS01]

21. Prior to the issue of a construction certificate a construction management plan, to the satisfaction of the Director of Environment and Community Services, shall be submitted to Council. All work shall comply with the approved construction management plan.

[PCCNS02]

22. A detailed landscaping plan shall be submitted to Council for approval and shall be to the satisfaction of Council's Landscape Architect and the Director of Planning and Development.

[PCCNS03]

23. The peak stormwater flow rate that may be discharged from the site to the public realm, in events of intensity up to the ARI 100 year design storm, shall be 200 l/s/ha. OSD devices including discharge control pits (DCP) are to comply with standards in *The Upper Parramatta River Catchment Trust "On-Site Stormwater Detention Handbook, Third Edition, December 1999"* except that permissible site discharge (PSD) and site storage requirements (SSR) in the handbook do not apply to Tweed Shire.

All stormwater must initially be directed to the DCP.

[PCC1165]

24. The developer shall provide 71 parking spaces including parking for the disabled in accordance with Development Control Plan No. 2, AS 2890 and Austroads Part 11.

Full design detail of the proposed parking and manoeuvring areas including integrated landscaping shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.

[PCC0065]

25. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

(a) Tweed Road Contribution Plan:	\$3,168
S94 Plan No. 4 (Version 4.0)	
Sector6_4	

[PCC0215/PSC0175]

- 26. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.**

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP5:	3.5576 ET @ \$4598	\$16,358
Sewer Kingscliff:	5.9618 ET @ \$6688	\$39,873

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0265/PSC0165]

27. Bicycle parking shall be provided on-site in accordance with DCP No. 2 - Site Access and Parking Code.

[PCCNS04]

28. Prior to the issue of the Construction Certificate a report shall be provided to Council by a suitably qualified person which specifies requirements for installation and noise amelioration of plant. After installation and prior to operation, compliance testing shall be conducted and a validation statement provided to Council. All plant shall comply with that report.

[PCCNS05]

PRIOR TO COMMENCEMENT OF WORK

29. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

30. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:

- i. The person must, at the person's own expense:
 - a. preserve and protect the building from damage; and**
 - b. if necessary, underpin and support the building in an approved manner.****
- ii. The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.**

[PCW0080]

31. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
 - (d) the person having the benefit of the development consent, if not carrying out the work as an owner-building, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.
- [PCW0215]
32. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.
- [PCW0225]
33. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-
- (a) a standard flushing toilet connected to a public sewer, or
 - (b) if that is not practicable, an accredited sewage management facility approved by the council
- [PCW0245]

34. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and**
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and**
- (c) stating that unauthorised entry to the site is prohibited.**

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

35. Prior to the commencement of work the Principal Certifying Authority is to be provided with and approve details of the kitchen exhaust system. Such details are to include the location of discharge to the air, capture velocity, size of hood and angle of filters. The system shall comply with Australian Standards SAA 1668 Part 2 Ventilation Requirements.

[PCW0575]

36. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

37. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:

- (a) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and**
- (b) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and**
- (c) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-**
 - (i) the method of protection; and**
 - (ii) the date of installation of the system; and**
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and**

- (iv) the need to maintain and inspect the system on a regular basis.

Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

[PCW0775]

38. The proponent shall provide to the Private Certifying Authority copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

39. Sewer main, stormwater line or other underground infrastructure within or adjacent to the site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.

[PCW0965]

40. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

[PCW0985]

41. Any business or premises proposing to discharge a pollutant discharge greater than or differing from domestic usage is to submit to Council an application for a Trade Waste Licence. This application is to be approved by Council prior to any discharge to sewer being commenced. A trade waste application fee will be applicable in accordance with Councils adopted Fees and Charges.

[PCW1075]

DURING CONSTRUCTION

42. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

43. The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the General Manager or his delegate.

Such to specifically include the following:

- (a) 150 millimetres thick reinforced with F72 Mesh for residential development or F82 mesh for Commercial/Industrial Development

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0065]

44. Car parking spaces for people with disabilities shall be provided and constructed in accordance with the provisions of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3.5 of the Building Code of Australia and it's requirement to comply with AS2890.1.

[DUR0095]

45. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

46. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

- A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

- B. Long term period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

47. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

48. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

49. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

50. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied in accordance with WorkCover 2000 Regulations.

[DUR0415]

(a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.

(b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

51. If the work involved in the erection or demolition of a building:

- (a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or
(b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

52. Sedimentation and erosion control measures shall be placed and maintained to the satisfaction of the Director of Environment and Community Services.

[DURNS01]

53. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations. [DURNS02]
54. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads. [DURNS03]
55. All waters that are to be discharged from the site shall have a pH between 6.5 and 8.5 and suspended solids not greater than 50 mg/kg. The contractor shall nominate a person responsible for monitoring of the quality of such discharge waters on a daily basis and the results recorded. Such results shall be made available to Council's Environmental Health Officer(s) upon request. [DURNS04]
56. All works shall comply with the Erosion and Sediment Control Plan (Cozens, Regan, Williams & Prove, March 2005). [DURNS05]
57. All works shall comply with the Acid Sulfate Soils and Dewatering Assessment (Border-Tech February 2005, BT 12956). [DURNS05]
58. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0645]
59. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works. [DUR0675]
60. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager of his delegate.
- Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works. [DUR0725]
61. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". [DUR0785]

62. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.

[DUR0805]

63. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

[DUR0815]

64. All fill and cut batters shall be obtained wholly within the subject land.

[DUR0825]

65. All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.

Please note timber retaining walls are not permitted.

[DUR0835]

66. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

67. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

68. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.

[DUR1015]

69. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

70. All materials used in the building must comply with the smoke developed and spread of flame indices specified in Specification C1.10 of the Building Code of Australia.

Note: Many materials including some timbers such as western red cedar do not comply and it is the applicants responsibility to ensure that all materials to be used are within the criteria specified.

[DUR1275]

71. Building materials used below Council's minimum floor level of RL 3.3m AHD shall be flood compatible.

[DUR1405]

72. Subject to the requirements of the local electricity authority, all electrical wiring, power outlets, switches, etc, should, to the maximum extent possible be located above the design flood level. All electrical wiring installed below the design flood level shall be provided with earth leakage devices.

[DUR1415]

73. Access to the building for people with disabilities shall be provided and constructed in accordance with the requirements of Section D of the Building Code of Australia. Particular attention is to be given to the deemed-to-satisfy provisions of Part D-3 and their requirement to comply with AS1428.

[DUR1685]

74. Where a building or part of a building is required, under the provisions of Section D of the Building Code of Australia, to be accessible to permit use by people with disabilities, prominently displayed signs and symbols shall be provided to identify accessible routes, areas and facilities. The signage, including Braille or tactile signage, should be installed in accordance with the relevant provisions of the Building Code of Australia and achieve the minimum design requirements provided under AS1428.

[DUR1695]

75. Where access for people with disabilities is required to be provided to a building, sanitary facilities for the use of the disabled must also be provided in accordance with the provisions Part F-2 of the Building Code of Australia.

[DUR1705]

76. A concrete ribbon footpath 1.2 metres wide and 100 millimetres thick is to be constructed on a compacted base along the entire frontage of the site to Sand Street in accordance with Councils adopted Development Design and Construction Specification.

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

[DUR1735]

77. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

78. All proposed road/streets, drainage and associated works within the development shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual and Development Design and Construction Specifications, except where varied by the conditions of this consent.

[DUR1815]

79. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Council's adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

80. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Pathways, footways, bikeways - formwork/reinforcement

Water Reticulation, Sewer Reticulation, Drainage

- (a) Permanent erosion and sedimentation control measures

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

81. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains.

[DUR1945]

82. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.

[DUR1955]

83. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

84. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.

[DUR2185]

85. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

86. Internal stormwater lines are to be connected directly into road drainage pits if available along the frontage of the site. A direct connection into the adjoining drainage easement located within Lot 1 DP 748603 will not be supported.

[DUR2395]

87. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

88. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard. [DUR2535]
89. Pre-treatment devices must be serviced by a Council approved waste contractor. The applicant will be required to enter into a service agreement with this waste contractor. Pre-treatment device service frequency will be approved by Councils Manager Water. [DUR2595]
90. The proponent shall comply with all requirements tabled within any approval issued under Section 68 of the Local Government Act. [DUR2625]
91. A hose tap shall be provided adjacent to a grease arrester for cleaning purposes and shall be fitted with a RPZD for the purpose of back flow prevention. [DUR2675]
92. No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main. [DUR2705]
93. The proponent shall notify Councils Engineering and Operations Division upon excavation of any disused sewer junction awaiting capping by Council. [DUR2715]
94. All surface water collected from hard stand parking areas to be directed to Council approved pre-treatment facilities before discharge to approved discharge locations. Stormwater from covered or enclosed carpark areas shall not be discharged to the public sewer unless approved treatment facilities have been provided. Details are to be submitted to and approved by Tweed Shire Council prior to installation [DUR2735]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

95. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans. [POC0005]
96. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]

97. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

98. Prior to occupation of the building the property street number is to be clearly identified on the site by way of painted numbering on the street gutter within 1 metre of the access point to the property.

The street number is to be on a white reflective background professional painted in black numbers 100mm high.

On rural properties or where street guttering is not provided the street number is to be readily identifiable on or near the front entrance to the site.

For multiple allotments having single access points, or other difficult to identify properties, specific arrangements should first be made with Council and emergency services before street number identification is provided.

The above requirement is to assist in property identification by emergency services and the like. Any variations to the above are to be approved by Council prior to the carrying out of the work.

[POC0265]

99. All existing essential fire safety measures are to be certified by a qualified person to the effect that each of the fire safety measures has been assessed and were found to be performing to a standard not less than that to which it was originally designed.

[POC0525]

100. A survey certificate signed by a registered surveyor is to be submitted to the Private Certifying Authority at floor stage to certify that the habitable floor level of the building to be at a level of not less than RL 3.6m AHD.

[POC0565]

101. Redundant road pavement, kerb and gutter or foot paving including and existing disused vehicular laybacks/driveways or other special provisions shall be reinstated in accordance with Councils adopted Development Design and Construction Specifications.

[POC0755]

102. The lots are to be consolidated into one (1) lot under one (1) title. The plan of consolidation shall be registered with the Lands Titles Office prior to issue of an occupation certificate.

[POC0855]

103. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

104. Prior to commencement of operations and on completion of fit out an inspection of all food handling areas shall be arranged with Council's Environmental Health Officer for final approval.

[POCNS01]

105. The food premises shall provide appropriate notification to the NSW Food Authority prior to commencement of operations.

[POCNS02]

106. The premise is to be treated on completion of fit-out and prior to commencement of trading and thereafter on a regular basis by a Licensed Pest Control Operator. A certificate of treatment is to be made available for Council inspection on request.

[POCNS03]

107. All loading/unloading to take place within the boundary of the subject property.

[USE0525]

108. All landscaping work is to be completed in accordance with the plans approved by Council's Landscape Architect and the Director of Planning and Development as detailed in condition no. 22, prior to any use or occupation of the building.

[USE0735]

109. Amplified music shall be restricted to the auditorium between the hours of 7am to 10pm.

[USENS01]

110. Activities at the premise shall be restricted to the hours 6am to 10pm and be generally in accordance with Part 1.3 - Figure 1 of the Environmental Noise Impact Report, TTM Consulting, 15 December 2005 unless an alternative is approved in writing by the DECS.

[USENS01]

111. Lighting shall not spill beyond the boundary of the property or impact the amenity of any residential premise.

[USENS02]

112. All wastes shall be collected, stored and disposed to the satisfaction of the Director of Environment and Community Services. A screened graded drained waste storage area shall be provided within the property boundary.

[USENS02]

113. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by Council's Director of Environment and Community Services.

[USENS03]

114. Practical measures to the satisfaction of Council's Director of Environment and Community Services are to be taken to acoustically

shield all pumps used for dewatering operations to minimise any noise disturbance to neighbouring or adjacent premises.

[USENS03]

115. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of Council's Director of Environment and Community Services.

[USENS04]

116. The proponent shall ensure that a maximum patronage of 284 persons including staff visit the site at any one time.

[USENS04]

117. The proposed cafe is to be available for the use of congregation members only and is not open to the general public.

[USENS05]

118. Regular services are restricted to Sundays and Friday evenings only, with other special services (such as weddings and funerals) as required.

[USENS05]

119. The crèche is to operate in conjunction with Church services and is not open to the general public.

[USENS05]

USE

120. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

[USE0125]

121. All activities associated with the occupancy of the building are to comply with the Protection of the Environment Operations Act, 1997.

[USE0135]

122. The LA10 noise level emitted from the premises shall not exceed the background noise level (LA90) in any Octave Band centre frequency (31.5 Hz - 8KHz inclusive) by more than 5dB(A) between 7am and 12 midnight, at the boundary of any affected residence. Notwithstanding the above, noise from the premises shall not be audible within any habitable room in any residential premises between the hours of 12 midnight and 7am weekdays and 12 midnight and 8am weekends (plus 5dBA from 7am to 10pm and not audible between 10pm and 7am).

[USE0165]

123. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.

[USE0205]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. The western elevation of the proposed auditorium shall comply with Level 3 Construction as per AS3959 'Construction of Buildings in Bushfire Prone Areas'. The remaining elevations shall comply with Level 2 Construction as per AS3959 'Construction of Buildings in Bushfire Prone Areas'.
2. The western elevation of the proposed church building shall comply with Level 3 Construction as per AS3959 'Construction of Buildings in Bushfire Prone Areas'. The remaining elevations shall comply with Level 2 Construction as per AS3959 'Construction of Buildings in Bushfire Prone Areas'.
3. The existing dwelling should be upgraded where possible to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen.
4. The entirety of the subject shall be managed as an Inner Protection Area as outlined in Section 4.2.2(b) of 'Planning for Bushfire Protection 2001'.
5. A Bush Fire Evacuation Plan is to be submitted to the NSW Rural Fire Service - Development Control Services for approval. The evacuation plan is to detail the following:
 - a) Under what circumstances will the complex be evacuated.
 - b) Where will all person be evacuated to.
 - c) Roles and responsibilities of persons co-ordinating the evacuation.
 - d) Roles and responsibilities of persons remaining with the complex after evacuation.
 - e) A procedure to contact the NSW Rural Fire Service District Office / NSW Fire Brigade and inform them of the evacuation and where they will be evacuated to.

GENERAL TERMS OF APPROVAL UNDER SECTION 116 OF THE WATER ACT 1912 (Licence to commence sinking a bore to enlarge, deepen or alter a bore)

- Before commencing any works or using any existing works for the purpose of Temporary Dewatering for Construction Purposes, an approval (licence) under Part 5 of the Water Act 1912 must be obtained from the Department. The application for the approval must contain sufficient information to show that the development is capable of meeting the objectives and outcomes specified in these conditions.
- An approval will only be granted to the occupier of the lands where the works are located, unless otherwise allowed under the Water Act 1912.
- When the Department grants an approval, it may require any existing approvals held by the applicant relating to the land subject to this consent to be surrendered or to let lapse.
- All works subject to an approval shall be constructed, maintained and operated so as to ensure public safety and prevent possible damage to any public or private property.
- All works involving soil or vegetation disturbance shall be undertaken with adequate measures to prevent soil erosion and the entry of sediments into any river, lake, waterbody, wetland or groundwater system.
- The destruction of trees or native vegetation shall be restricted to the minimum necessary to complete the works.

- All vegetation clearing must be authorised under the Native Vegetation Conservation Act 1997, if applicable.
 - The approval to be granted may specify any precautions considered necessary to prevent the pollution of surface water or groundwater by petroleum products or other hazardous materials used in the construction or operation of the works.
 - A license fee calculated in accordance with the Water Act 1912 must be paid before a license can be granted.
 - The authorised annual entitlement will not exceed 10 megalitres.
 - Extraction of water under the approval to be issued shall be subject to conditions with regard to availability of supply and such restrictions as are deemed necessary by the Department from time to time to ensure an adequate flow remains for other water users and the environment.
 - If and when required by the Department, suitable devices must be installed to accurately measure the quantity of water extracted or diverted by the works.
 - All water measuring equipment must be adequately maintained. It must be tested as and when required by the Department to ensure its accuracy.
 - Works for construction of bores must be completed within such period as specified by the Department.
 - Within 2 months after the works are completed the Department must be provided with an accurate plan of the location of the works and notified of the results of any pumping tests, water analysis and other details as are notified in the approval.
 - Officers of the Department or other authorised persons must be allowed full and free access to the works for the purpose of inspection and testing.
 - Water shall not be pumped from the works for any purpose other than dewatering for construction purposes.
 - The use of water shall be conditional on no tailwater drainage being discharged into or onto -
 - any adjoining public or crown road
 - any crown land
 - any river, creek or watercourse
 - any groundwater aquifer
 - any area of native vegetation
 - any wetlands
 - The work shall be managed in accordance with the constraints set out in the "Acid Sulfate Soils & Dewatering Assessment" produced by Border Tech as detailed in Appendix H of the Statement of Environmental Effects dated July 2005.
 - The volume of groundwater extracted as authorised must not exceed **10** megalitres.
 - The Department has the right to vary the volumetric allocation or the rate at which the allocation is taken in order to prevent the overuse of an aquifer.
- The licence shall lapse within **six (6)** months of the date of issue of the licence.

REPORT:

Applicant: Christian City Church Kingscliff Property Ltd
Owner: Christian City Church Kingscliff Property Ltd
Location: Lots 35, 36, 37, 38 & 39 DP 249808 No. 22-30 Sand Street, Kingscliff
Zoning: 2(b) Medium Density Residential
Cost: \$800,000

BACKGROUND:

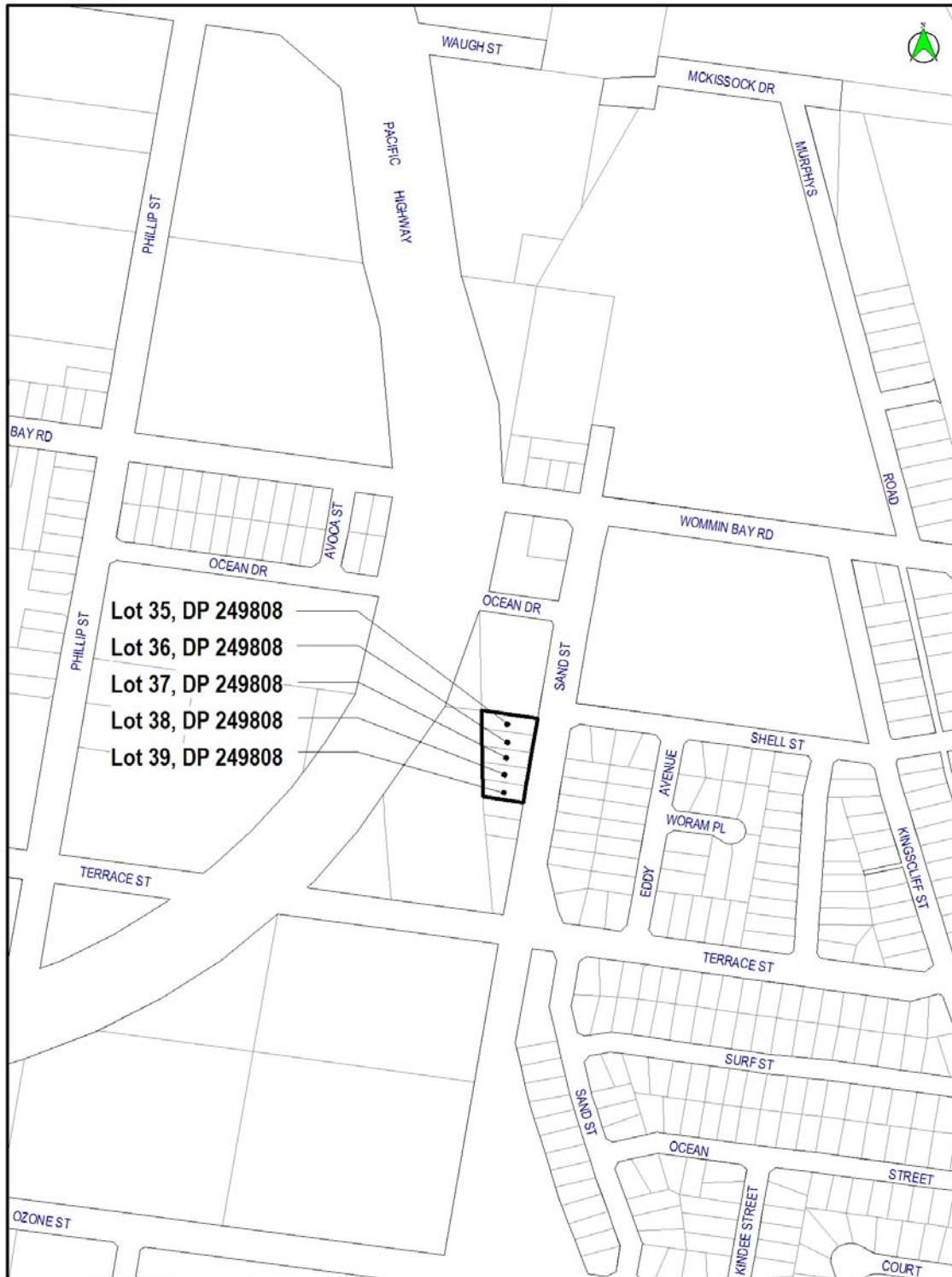
Council is in receipt of an application seeking consent to alter and make additions to the Kingscliff Christian City Church. The proposal involves the construction of an auditorium and above ground car park, additions plus alterations to the existing building including a café, a kitchen, crèche area, meeting rooms, rooms for church for children and an office area. The proposal also involves the conversion of a dwelling into an office and consulting rooms. The proposed office and consulting room are to be used as the primary office/administration centre for the Church. Both uses are ancillary to the operation of the Church and regarded as being consistent with the definition of a place of public worship.

The site is currently occupied by a building which is used as a place of public worship and dwelling house. The site has frontage to Sand Street, is relatively flat and is generally clear of vegetation.

On 2 November 1978 Council approved an application (Town Planning Permit TP 4097) to construct a church hall and welfare rooms on Lot 36 and 37. Car parking associated with this use was to be provided on Lot 39 (DP 249808), Sand Street.

On 11 December 1998 the Development Assessment Panel approved an application to modify Town Planning Permit TP 4097 to limit the number of persons able to visit the site at any one time to 170. The modification also required a minimum of 17 on-site car spaces be provided on Lots 36, 37 and Part 38 which was to be designed in accordance with DCP No. 2 and to be approved by the Director Development Services prior to any construction works commencing. The works were required to be completed within 6 months of the date of the modification or prior to the release of the linen plan for the proposed boundary adjustment between Lots 37 and 38, whichever occurred first. Lots 36 and 37 were also required to be consolidated and registered. It should be noted that the abovementioned Lots have not been consolidated and formal car parking has not been provided on-site.

SITE DIAGRAM:



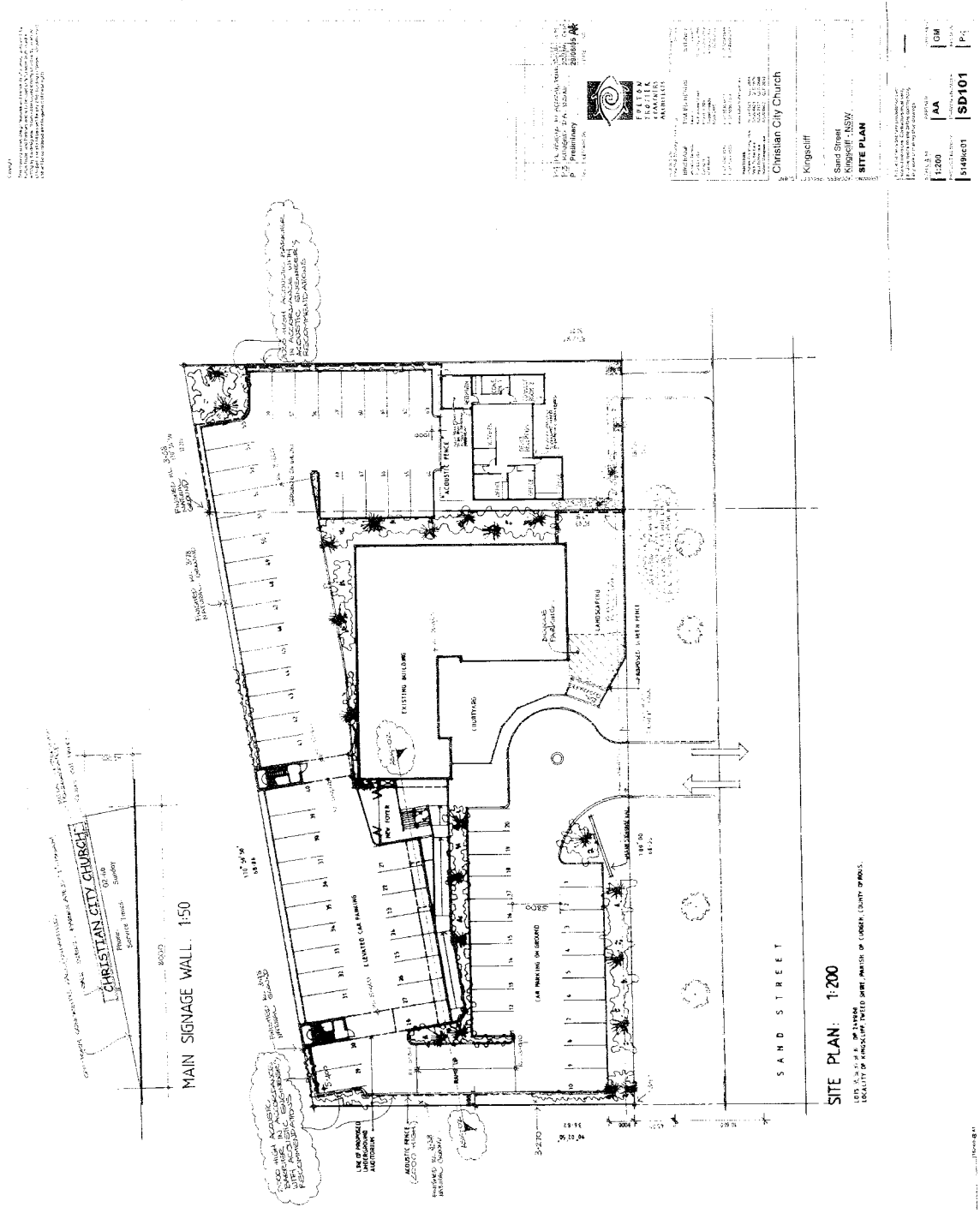
© TWEED SHIRE COUNCIL 2006
 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map.
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 P O Box 816 Murwillumbah, NSW, 2484 Tel: (02) 6670 2409 Fax: (02) 6670 2483

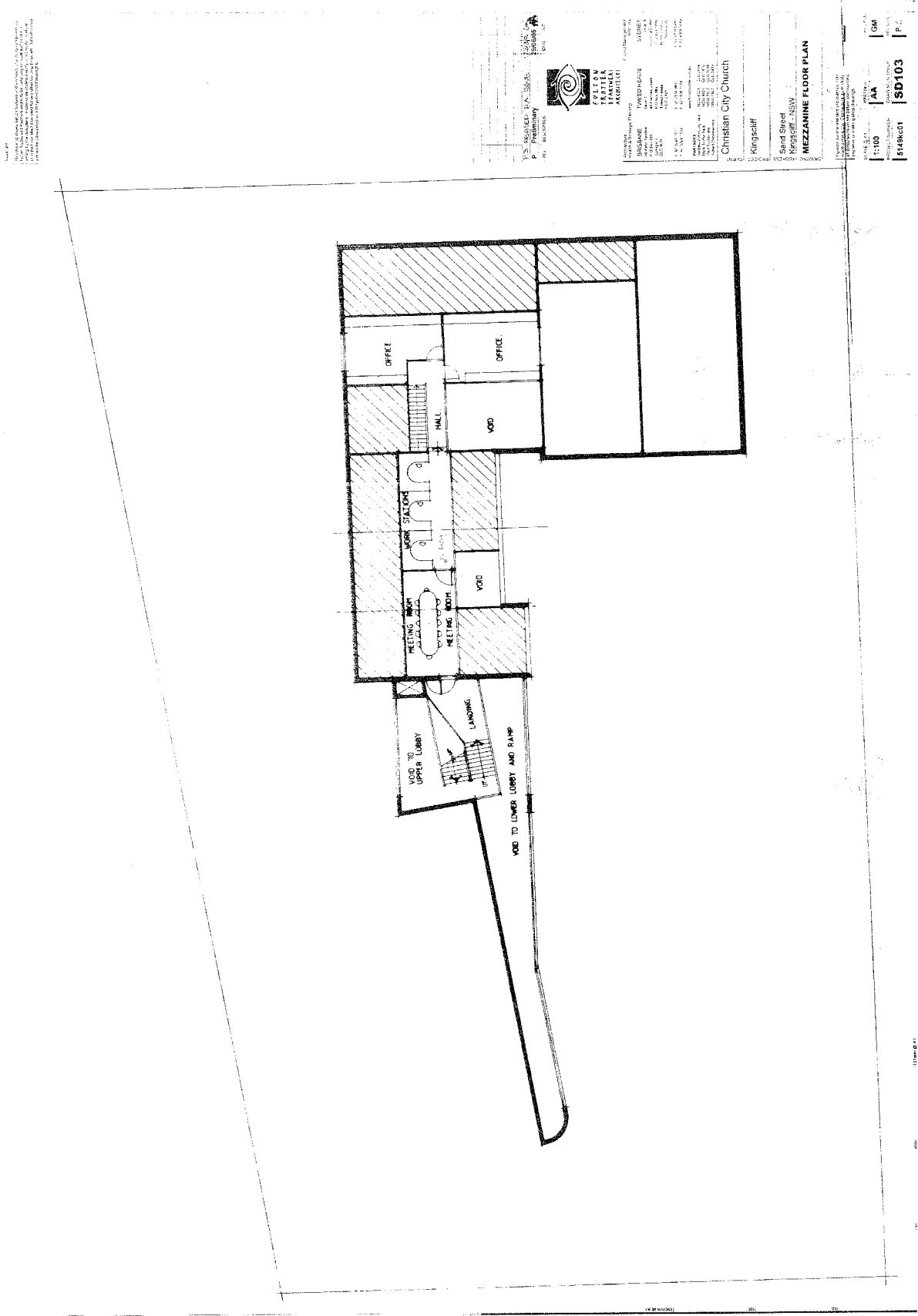
Tweed Shire Council
 Lots 35, 36, 37, 38 & 39 DP 249808
 No. 22-30 Sand Street, Kingscliff
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 26/June/2006 Scale: 1:5,000



STRATEGIC PLANNING UNIT
Site Plan
 Sheet: 1 of 1

DEVELOPMENT PLANS





1:100
 Project Name: Christian City Church
 Project Location: Kingscliff, NSW
 Drawing No: SD105
 Date: 20/07/06
 Author: P. S. Richards
 Checker: P. S. Richards
 Title: Roof Plan

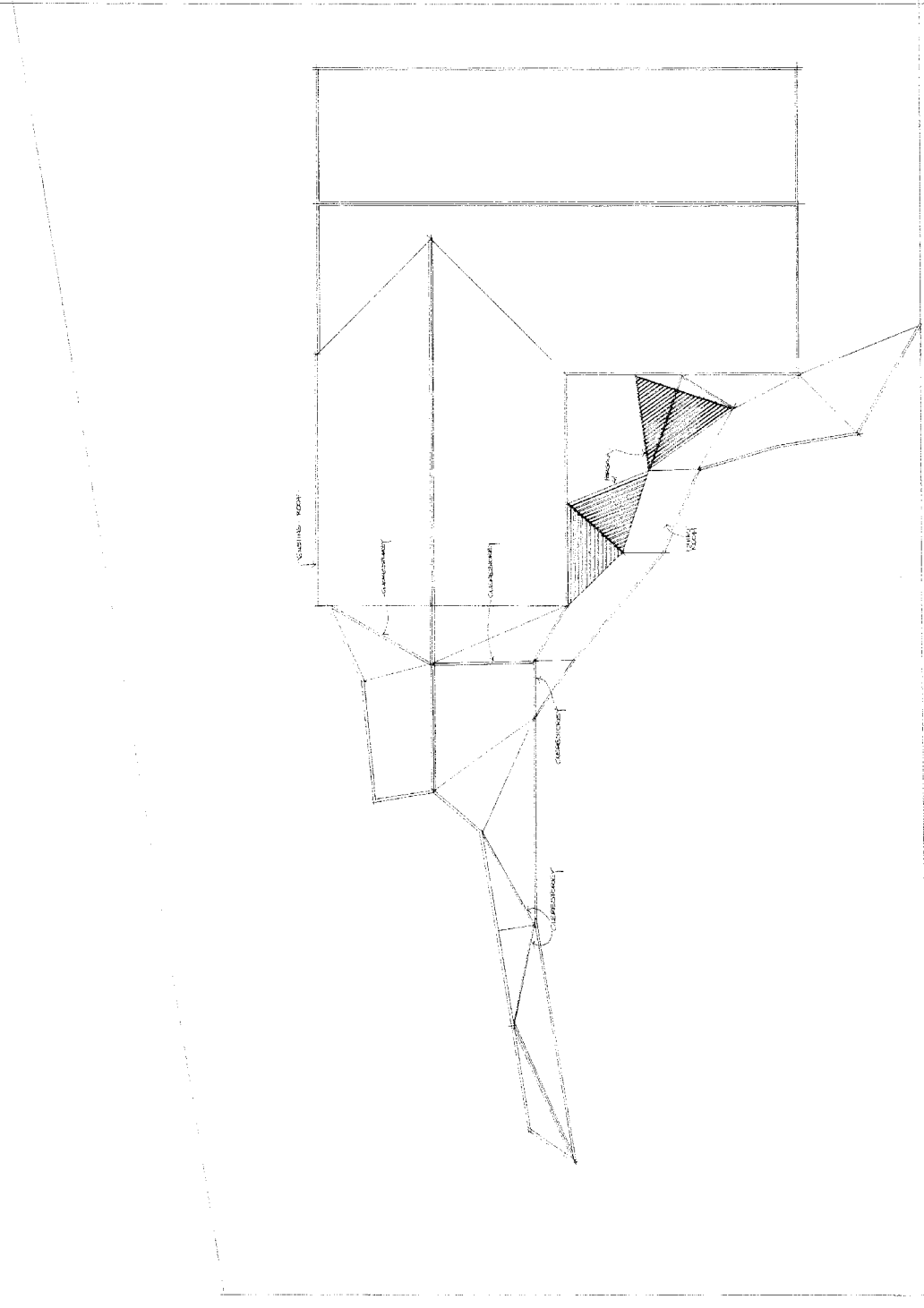
P. S. Richards
 P. Richards
 20/07/06
 Kingscliff, NSW
 Christian City Church



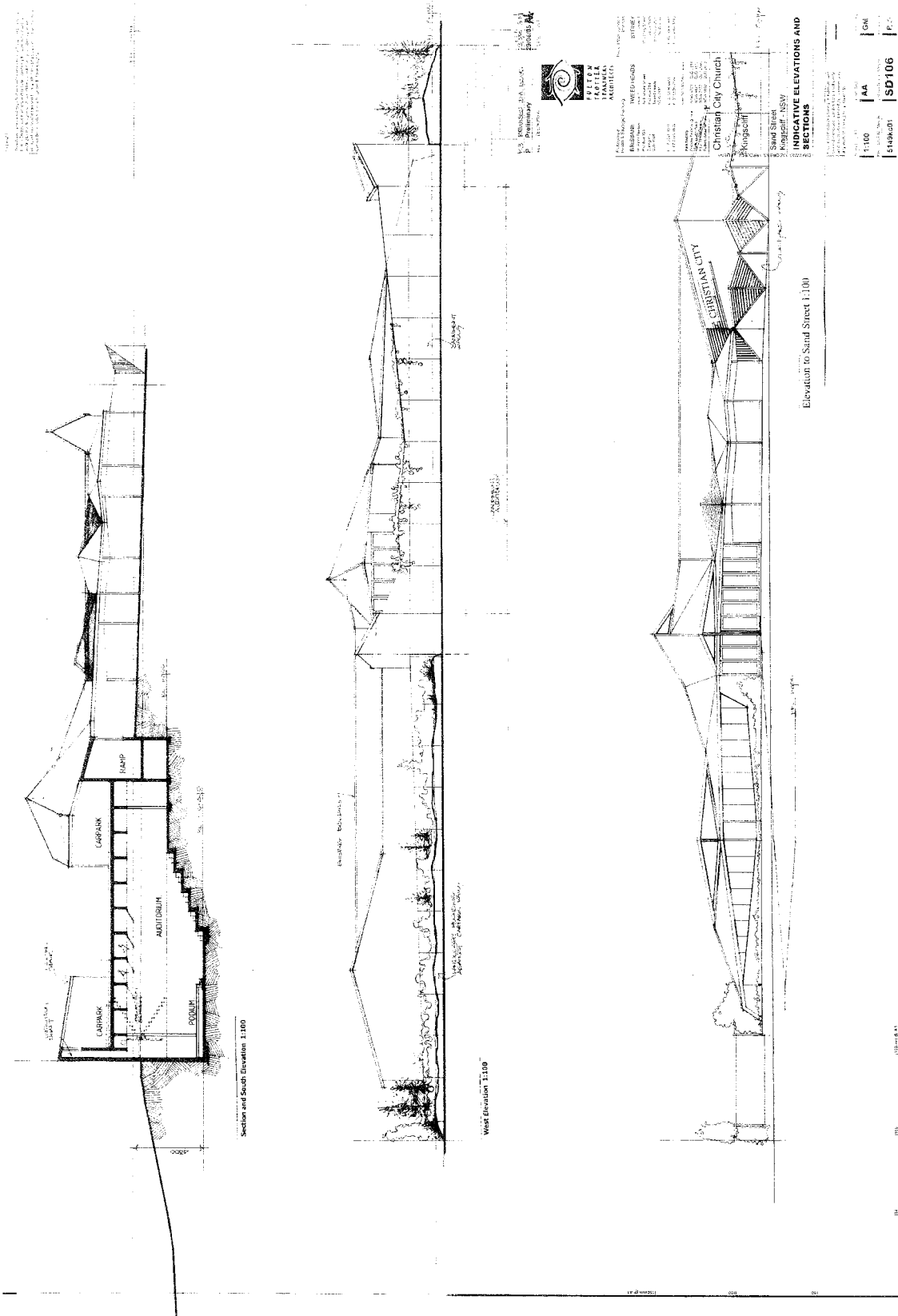
Architect: P. S. Richards
 Project Name: Christian City Church
 Project Location: Kingscliff, NSW
 Drawing No: SD105
 Date: 20/07/06
 Author: P. S. Richards
 Checker: P. S. Richards
 Title: Roof Plan

Christian City Church
 Kingscliff
 Sand Street
 Kingscliff, NSW
ROOF PLAN

Scale: 1:100
 Project No: SD105
 Drawing No: SD105
 Date: 20/07/06
 Author: P. S. Richards
 Checker: P. S. Richards
 Title: Roof Plan



1:100
 Project Name: Christian City Church
 Project Location: Kingscliff, NSW
 Drawing No: SD105
 Date: 20/07/06
 Author: P. S. Richards
 Checker: P. S. Richards
 Title: Roof Plan



CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The subject site is located within part zone 2(a) Low Density Residential and 2(b) Medium Density Residential. The proposed office and consulting rooms are to be used as the primary administration centre for the Church. Both uses are ancillary to the operation of the Church and are regarded as being consistent with the definition of a place of public worship which is defined as: -

"a church, chapel or other place of public worship or religious instruction or a place used for the purpose of religious training".

A place of public worship is permissible with consent.

Zone 2(a) Low Density

Primary zone objective applicable to the subject site

"to provide for and maintain a low density residential environment with a predominantly detached housing character and amenity."

Secondary objectives applicable to the proposed development

"to allow for non-residential development that is domestically based, or services the local needs of the community, and does not detract from the primary objective of the zone."

Zone 2(b) Medium Density Residential

The primary objective of the 2(b) zone is as follows: -

"to provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes."

The secondary objective applicable to the proposed development: -

" to allow for non-residential development which supports the residential use of the locality."

It is considered that the proposed development is consistent with Clause 8, the primary zone objectives and the applicable secondary zone objectives relating to the proposed development.

Clause 15 of the TLEP requires Council to be satisfied that the subject land has the benefit of essential services prior to issuing consent. Essential services are available to the site. Council's reticulated water supply system is located within the nature strip area on the opposite side of the road from the subject site within Sand Street. The main provides demand potable water to all adjoining allotments. Council's reticulated sewage system is available to the site. Electricity, telecommunication and waste collection services are available to the site.

Clause 16 of the TLEP requires development to be carried out in accordance with the height limitation plan. The site has an allowable height limit of three storeys. In accordance with the definition of a storey the proposal represents a part one and part two storey development.

Clause 35 of the TLEP requires an acid sulfate soils management plan to be assessed where the proposed development is likely to interfere with acid sulfate soils. The subject site is identified as land class 3. The Department of Natural Resources issued general terms of approval requiring that the works shall be undertaken in accordance with the submitted Acid Sulfate Soils and Dewatering Assessment.

North Coast Regional Environmental Plan 1988

Clause 32B - Coastal Lands

Clause 32B applies to this development application as the site is affected by the NSW Coastal Policy 1997.

The proposed development is considered to be consistent with the strategic actions and principles of the Coastal Policy. The proposal is consistent with the Coastline Management Manual and the North Coast: Design Guidelines. The proposal will not affect access to or overshadow the foreshore.

State Environmental Planning Policies

SEPP No. 11 – Traffic Generating Development

The Local Traffic Committee advice was sought in accordance with SEPP No. 11 as the proposal involves an enlargement/extension of an existing place of public worship, in which the enlargement/extension includes accommodation for 50 or more motor vehicles.

The Local Traffic Committee provided the following comments:

"The application proposes to extend and alter an existing place of public worship. The proposal incorporates 68 on-site car spaces and 18 on-street car spaces, within the road reserve. Please note the Statement of Environmental Effects refers to works within the road reservation, but does not detail what these works are. Council has not consented to the proposal being undertaken on Council land.

It was noted that the car parking on Sand Street must comply with Council's DCP No. 2 and Austroads Standards for on-street car parking. In regards to traffic impact, the Committee noted that the peak hour traffic would be on Sundays and not correlate with business peak hour and should not generate problems."

It should be noted that the proposed car parking layout and required number of spaces has been modified since the Local Traffic Committee commented on the proposal. On-street car parking is no longer proposed.

State Environmental Planning Policy No. 64 – Advertising Signage

The proposal involves the erection of a free standing building identification sign (approximately 5.6m²) which displays the name of the church, contact phone number and service times. The proposal is considered to be consistent with the requirements of the SEPP.

State Environmental Planning Policy No. 71 – Coastal Protection

The site is not located in a sensitive coastal location. Clause 8 of the policy details sixteen matters for consideration for land situated within the coastal zone. The application is considered to adequately satisfy the matters for consideration. Specifically the proposed development is considered to be compatible with the intent for the development of the locality.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

There are no draft planning instruments which apply to this development application.

(a) (iii) Development Control Plans (DCP's)

Draft Consolidated Development Control Plan

In order to meet State Government Planning reforms Council is proposing that all the current DCPs be amalgamated into one consolidated Tweed Shire DCP. In converting these DCPs to Sections, there have been no significant amendments made to the documents. As such the proposed development is generally consistent with the draft DCP.

DCP 2 - Site Access and Parking has also been amended and Council has resolved that this amendment be exhibited with this new consolidated DCP. The changes made in the draft section of the DCP do not affect the car parking rates of the proposed development.

DCP No. 2 – Site Access and Parking Code

The proposed development has been amended since its lodgement, reducing the number of seats within the proposed auditorium from 350 to 284 seats. The amendment has also resulted in on-street car parking being deleted from the submitted plans. The on-street car spaces conflicted with a Council proposed bicycle track along the site's frontage.

An assessment of the required car parking is provided below.

As previously discussed in 1978 Council approved an application (TP4097) to construct a church hall and welfare room (approximately 628m²).

The permit required 17 on site car spaces for stages 1 and 2. Stage 2 has not been built. Therefore there is no credit available for this component. Stage 1 required 9.35 car spaces (based on 55% of the total floor area approved (340.5m²)).

The proposed ground floor has the same floor area (340.5m²) as stage 1 with similar uses in a reconfigured layout. Therefore the credit that applied to the original building still applies to the ground level of the proposed building. This part of the building needs to supply 9.35 on-site spaces in accordance with the original approval.

The proposed café is an ancillary use only to the church and therefore has not been charged as a separate café rate.

Use	Required	Proposed
Proposed place of worship (auditorium) 284 seats	Staff parking: $0.5/\text{staff} = 1.6$ spaces Customer parking: 0.3 spaces to each seat or to each square metre of net floor area whichever is greater = 68.16 spaces (includes 20% ESD)	68 on-site spaces
Mezzanine level 2 offices (50.4m ²), an open plan office with 3 workstations (22.4m ²) and a meeting room (20.8m ²).	1 space/40m ² = 1.87 spaces (includes 20% ESD)	
Office (115m ²) Conversion of dwelling house	Staff parking: $1/40\text{m}^2 \text{ GFA} = 2.3$ spaces (includes 20% ESD)	3 on-site spaces available in association with dwelling house
Existing building 340.5m ² (TP 4097) Stage 1 which has been built consists of hall, welfare centre, primary & kindergarten rooms, storage area & toilet facilities	9.35 spaces	
Total	83.28 spaces	71 spaces

Despite the components of the proposal requiring different rates of car parking, all the components of the site are ancillary to the operation of the Church. The car parking on site will be utilised by all components of the proposal. The site is likely to be maximised at congregation times only, being generally restricted to Friday nights and Sundays. At these times the other components of the site are unlikely to be in use. Any overflow of vehicles could park along the site's frontage (on-street). Although DCP2 requires 83.28 spaces, it allows a merit assessment to vary the minimum requirements. It is considered that the proposed 71 car spaces is adequate to accommodate the use of the site.

The applicant has provided several traffic reports justifying the on-site parking based on traffic demand. Council's Traffic and Transport Engineer has supported the on-site car parking in principle.

To ensure all uses operate in conjunction with one another, a condition of consent has been imposed requiring that the allotments be consolidated.

Bicycle parking are to be provided in accordance with DCP No. 2 and forms a condition of consent.

DCP No. 5 – Development of Flood Liable Land

Council's Development Engineer has assessed the proposal in accordance with the DCP. Council's Development Engineer has recommended that the site be filled to a minimum of 3.3m AHD as a condition of consent. Further details in this regard will be required prior to the construction certificate.

DCP No. 43 – Kingscliff

The site is identified as being within the Kingscliff North precinct and nominated as being the preferred location for neighbourhood shopping. It should be noted that the site is constrained by the existing on-site building used by the Christian City Church. A place of public worship is permissible with Council's consent in accordance with the Tweed Local Environmental Plan 2000.

The proposal is consistent with the vision for Kingscliff and the applicable precinct objectives. The design of the proposal is largely constrained by the existing building on-site. The proposal will appear as a single storey development with an activated street frontage.

The design of the proposal is sympathetic to the existing streetscape.

DCP No. 48 – Tweed Coast Building Heights

The proposal is generally consistent with the requirement of the DCP.

As places of public worship are not specifically defined in the DCP, the most appropriate height category for the development is considered to be commercial development.

Standard	Required Acceptable Solutions / Performance Criteria	Proposed
Building height	<p>Acceptable solution maximum overall height: 10m.</p> <p>Acceptable solution maximum height to the uppermost ceiling/wall: 8m</p>	<p>The proposal has a maximum ceiling/wall height of 4.5m and a maximum height of 7.5m from the finished ground level and.</p>
Building Setbacks & Envelope	<p>Whilst the site is situated within a residential zone, the required setbacks relate to residential development only. As such the performance criteria have been used:</p> <ul style="list-style-type: none"> * The proposal is sympathetic to the scale and bulk of the existing development * The proposal is compatible with the streetscape and supports a sense of street identity * The proposed development is setback from the street so as to avoid buildings appearing overbearing to pedestrians * Visual and acoustic privacy have been key factors in the design of the proposal particularly in relation to the auditorium. * Direct overlooking from the subject site into adjoining properties is minimised by the layout of the proposed development. The main entrance and high use areas within the development are orientated towards the street or underground. 	<p>Street frontage - Minimum 6.4m</p> <p>Southern side 1m to car park</p> <p>Northern side 6m to auditorium</p> <p>Rear – west 1.2m (no change to existing dwelling's setback) 1m to car park Auditorium built to boundary</p> <p>The proposal is considered to be consistent with the performance criteria</p>

DCP No. 51 – Tweed Coast Strategy

The proposed development is consistent with the DCP.

(a) (iv) Any Matters Prescribed by the Regulations

Council's Building Surveyor has assessed the proposal and advised that the works comply with Clause 94 of the Regulations.

Clause 92(a) Government Coastal Policy

The land is identified as being affected by the Coastal Policy. The site is not affected by the Coastal Erosion Zones, is unlikely to be affected by the coastal processes, will not overshadow foreshore reserves and does not restrict public access to the coast. The proposed development is consistent with the policies and strategies contained within the coastal policy.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

Noise

An Environmental Noise Impact Report has been provided for the proposal. The report identified that the main noise source associated with the indoor Church activities will be amplified music and congregational singing and the outdoor noise sources will be largely from vehicular movements, children playing and people talking. The report identified that the properties most likely to be affected by these noise sources will be the residential dwellings situated adjacent to the site's northern and southern boundaries and the dwellings directly opposite the site to the east.

The noise impact report provided recommendations regarding acoustic treatments. These treatments include factors such as erecting acoustic barriers around the outdoor crèche area and all building envelopes including doors and windows should be closed.

The report also provided recommendations regarding management principles, which includes continued enforcement of the noise control strategy. Further recommendations include restricting activities with high levels of noise to be undertaken within the auditorium, restricting hours of operation and limiting the levels of noise produced within the auditorium.

The report was amended throughout the processing of the application to the satisfaction of Council's Environmental Health officer. Council's Environmental Health officer has supported the current Environmental Noise Impact report, subject to conditions of consent. The recommended conditions require the construction and operation of the Church activities to be in accordance with the submitted Environmental Noise Impact report.

Overshadowing

The properties adjoining the site's southern and western boundaries will be affected by the proposed development by way of overshadowing.

The property to the site's southern boundary is known as 32 Sand Street, Kingscliff (Lot 40 DP 249808). 32 Sand Street is occupied by a single storey multi dwelling housing development. The setback between the existing and proposed developments results in a physical separation of approximately 4.4m. The property to the site's west is currently vacant and zoned 1(a) Rural Clause 38 (future roads). Both properties will experience some overshadowing as a result of the proposal.

The proposed development has been designed to minimise the impacts on adjoining properties. It should be noted that the allowable building height for the subject site is three storeys. The proposal incorporates a maximum of two storeys which is generally restricted to the centre of the site approximately 12m from the existing multi dwelling housing development.

The shadow currently experienced by the property to the site's immediate north will not significantly change as a result of the proposed alterations/additions.

Despite the impact on the adjoining properties, it is considered that the proposed overshadowing impact is acceptable.

There are no further impacts anticipated as a result of this proposal other than those previously discussed in this report.

(c) Suitability of the site for the development

The subject site is zoned part 2(a) Low Density Residential and part 2(b) Medium Density Residential. The proposed development is consistent with the objectives of the zone and is generally consistent with the applicable DCPs. The proposal is consistent with the desired future character of the area and is considered to be suitable for the subject site.

(d) Any submissions made in accordance with the Act or Regulations

In accordance with DCP No. 42 the development application was notified for a period of 14 days. Three (3) submissions have been received to date. It should be noted that the plans have been amended since the exhibition period. The amended plans were not re-exhibited as the amendments reduced the number of seats within the auditorium and deleted the on-street car parking.

Issue	Comment	Assessment
Car Parking	Concern was raised regarding the number of car spaces provided.	Please refer to the DCP No. 2 assessment as detailed previously detailed in this report. This matter does not warrant refusal of the development application.
	The 2 storey car park would not be an eyesore if it did not cover the whole site.	The single level car park is situated above the auditorium and around the existing building. The car park does not cover the entire subject site. This matter does not warrant refusal of the development application.
Noise	Concern was raised regarding the potential noise impact of the band music. The objector requested that the most recent petition regarding noise be brought to Council's attention.	Council's Environmental Health Officer has assessed the submitted development application including the Environmental Noise Impact Report. The officer recommended that the proposal be supported with conditions of consent to ensure noise associated with the proposal is minimised. The most recent petition regarding noise is dated 5 December 2001. The petition was a complaint regarding band practice operating at the subject site until 11pm. The petition further states that in a residential area residents are entitled to a peaceful environment. The petition was signed by 20 persons living within proximity to the site. Council has not received any further noise complaints regarding this matter to date. This matter does not warrant refusal of the development application.

<p>Building construction standards</p>	<p>Clarification was sought regarding the submitted Clause 46 Bushfire Hazard Assessment as to whether sprinklers were proposed in the new structure.</p>	<p>Council's Building Surveyor has assessed the development application in accordance with the Building Code of Australia. The existing building was found to generally comply with these standards. No upgrading to the existing building is required.</p> <p>This matter does not warrant refusal of the development application.</p>
<p>Section 138 application</p>	<p>Clarification was sought regarding why a Section 138 application for works within the road reserve is not part of this development application.</p>	<p>A Section 138 application is required in accordance with the Roads Act 1993 for works within the road reserve including the construction of a driveway. It is a separate application.</p> <p>This matter does not warrant refusal of the development application.</p>
<p>Management of amplified noise</p>	<p>How will the amplified music be controlled?</p>	<p>A table of day-to-day operations and anticipated operating hours for the place of public worship was submitted with the development application.</p> <p>Council's Environmental Health officer has assessed the development application. The officer has recommended that the proposal be supported with conditions of consent to restrict amplified music in the auditorium to 7am to 10pm. In addition to this, the officer has recommended a condition of consent to require the operation of the place of public worship to be undertaken in accordance with the submitted environmental noise impact report.</p> <p>This matter does not warrant refusal of the development application.</p>

<p>Stormwater Management Plan</p>	<p>The proposed method of collecting stormwater is not acceptable.</p>	<p>The stormwater management plan has been amended since the exhibition period of the development application. Council's Development Engineer has recommended that the proposal be supported subject to a permanent stormwater quality treatment being provided to Council requirements.</p> <p>This matter does not warrant refusal of the development application.</p>
<p>Support for concept</p>	<p>The concept of placing the auditorium underground is supported.</p>	<p>This matter does not warrant refusal of the development application.</p>
<p>Operation of the child care centre (crèche)</p>	<p>Concern was raised regarding the operation of the crèche outside of Sunday Church hours.</p>	<p>As a condition of consent the crèche is required to operate in conjunction with Church services and is not open to the general public. The crèche is not a commercial day care centre.</p> <p>This matter does not warrant refusal of the development application.</p>

<p>Impacts on ground water and the use of water pumps</p>	<p>The noise from the water pumps operating 24 hours a day, seven days a week will disrupt residents.</p>	<p>The proposed dewatering requires the General Terms of Approval (GTAs) from the Department of Natural Resources as part of the development application process. The GTAs have been provided restricting the volume of groundwater to be extracted to a maximum of 10 megalitres. In addition to this restriction the applicant must also obtain a licence from the Department which lapses within 6 months of the issue of the licence.</p> <p>In addition to this a separate condition has been imposed requiring the applicant to notify adjoining land owners prior to commencement of any 24 hour pumping for dewatering operation.</p> <p>This matter does not warrant refusal of the development application.</p>
	<p>The groundwater level will be reduced as a result of the construction of the auditorium, which may affect the operation of local spear pumps used by local gardeners.</p>	<p>As discussed above the Department of Natural Resources have assessed the proposal with regards to the impact on ground water. The Department have issued their GTAs. Council officers have recommended that the proposal be supported accordingly.</p> <p>This matter does not warrant refusal of the development application.</p>

(e) Public interest

Despite the matters outlined in the submissions received the proposed development is not considered to be contrary to the wider public's interests.

OPTIONS:

1. Approve the development application with conditions.
2. Refuse the development application with reasons.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

It is recommended that the proposed place of public worship be approved subject to the attached conditions.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P4 [PD-PC] Development Application DA05/1013 for a Three (3) Lot Subdivision at Lot 8 DP 618883, No. 782-786 Upper Burringbar Road, Upper Burringbar

ORIGIN:

Development Assessment

FILE NO: DA05/1013 Pt1

SUMMARY OF REPORT:

At the Planning Committee meeting of 13 June 2006, Council resolved as follows in relation to the abovementioned development application:-

"RECOMMENDED that Development Application DA05/1013 for a three (3) lot subdivision at Lot 8 DP 618883, No. 782-786 Upper Burringbar Road, Upper Burringbar be deferred to the next Planning Committee meeting to bring forward reasons for refusal."

In accordance with the resolution, the following reason for refusal is proposed:-

"1. Pursuant to Section 79C(1)(c) the subject site is not considered suitable for the proposed development."

It is noted that should the application be refused, Council will be required to commence legal action in relation to the unlawful dwellings currently occupying the parent parcel.

RECOMMENDATION:

That Development Application DA05/1013 for a three (3) lot subdivision at Lot 8 DP 618883, No. 782-786 Upper Burringbar Road, Upper Burringbar be approved subject to the following conditions: -

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 2385PR/3B prepared by N.C. White and Associates and dated 04/08/2005, except where varied by the conditions of this consent.

[GEN0005]

2. The subdivision is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications.

[GEN0125]

3. **Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**
[GEN0135]
4. **The western dwelling on proposed Lot 3 is to be demolished or removed from the site, under separate development consent, prior to Council linen plan release and registration of subdivision.**
[GENNS01]
5. **A Building Certificate application for each dwelling, accompanied by a certificate of structural adequacy from a Structural Engineer, is to be submitted to Council within one month of the registration of subdivision.**
[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

6. **Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000).**

The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

7. **In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.**
[PCC0285]
8. **Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, DCP47 and Councils adopted Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.**

Please note timber retaining walls are not permitted.

[PCC0475]

9. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.
- [PCC0865]
10. The proponent shall submit plans and specifications with an application for construction certificate for the following roadworks with associated subsurface overland flow and piped stormwater drainage structures designed in accordance with Councils adopted Design and Construction specifications.
- (a) Upper Burringbar Road is to be upgraded and sealed to a 'Class A' rural road. A four (4) metre seal on an 8.6 metre formation width is to be provided along the entire frontage of Lot 8 DP 618883 in accordance with Tweed Shire Council's DCP No.16 - Subdivision Manual. The road is to be located within a minimum road reserve width of 20 metres to accommodate formation, earthworks, fencing, catch drains and any other longitudinal and transverse drainage.
- (b) A turning circle with an 18 metre diameter is to be provided at the end of Upper Burringbar Road.
- (c) All driveways are to be sealed with a two (2) coat bitumen seal from the sealed road to the property boundary.
- (d) Construction of the right of carriageway serving Lot 2 to the following standard; two coat bitumen seal to a width of 3.6 metres. The easement for the right of carriageway shall be 1 metres wider than the pavement and any associated batters, catch drains or service corridors in accordance with the provisions of DCP No.16 - Subdivision Manual and Council's Development Design and Construction Specification.
- [PCC0875]
11. Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.
- (a) copies of compliance certificates relied upon
- (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
- earthworks
 - roadworks/pavement design/furnishings
 - stormwater drainage
 - sedimentation and erosion management plans

- location of all service conduits (water, sewer, Country Energy and Telstra)

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

12. Permanent stormwater quality treatment shall be provided in accordance with the following:

- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.**
- (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.**
- (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.**

[PCC1105]

13. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.**
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".**

[PCC1155]

PRIOR TO COMMENCEMENT OF WORK

14. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing. [PCW0225]
15. Subdivision work in accordance with a development consent must not be commenced until:-
- (a) a construction certificate for the subdivision work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by:
 - (i) the consent authority, or
 - (ii) an accredited certifier, and
 - (b) the person having the benefit of the development consent:
 - (i) has appointed a principal certifying authority,
 - (ii) has appointed a Subdivision Works Accredited Certifier in accordance with Development Control Plan No. 16, Appendix C, and
 - (iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and
 - (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work. [PCW0815]
16. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period. [PCW0835]

DURING CONSTRUCTION

17. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications. [DUR0005]
18. Provision of adequate vehicular access in accordance with Council's "Access to Property" pamphlet, including the following specific work
- (a) Bitumen sealing of accesses from the road carriageway to the property boundary of each proposed lot.

- (b) Provision of 375mm minimum diameter pipe culvert crossings, including precast headwalls, to each lot in accordance with Councils adopted Development Design and Construction Specifications. [DUR0045]
19. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -
- Monday to Saturday from 7.00am to 7.00pm
- No work to be carried out on Sundays or Public Holidays
- The proponent is responsible to instruct and control subcontractors regarding hours of work. [DUR0205]
20. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
- L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
- B. Long term period - the duration.
- L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence. [DUR0215]
21. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority. [DUR0645]
22. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos. [DUR0655]

23. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments". [DUR0785]
24. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited. [DUR0815]
25. All retaining walls proposed are to be constructed in accordance with the construction Certificate approval issued by the Principal Certifying Authority. [DUR0845]
26. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council. [DUR0985]
27. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate. [DUR0995]
28. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind
- [DUR1005]
29. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works. [DUR1795]
30. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.
- (a) That the pavement has been designed and constructed in accordance with Tweed Shire Councils adopted Construction and Design Specification, D2.

- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils adopted Design and Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996. [DUR1805]
31. All proposed road/streets, drainage and associated works within the development shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual and Development Design and Construction Specifications, except where varied by the conditions of this consent. [DUR1815]
32. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1875]
33. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-
- Roadworks
- (a) Pre-construction commencement erosion and sedimentation control measures
 - (b) Completion of earthworks
 - (c) Excavation of subgrade
 - (d) Pavement - sub-base
 - (e) Pavement - pre kerb
 - (f) Pavement - pre seal
 - (g) Final inspections - on maintenance
 - (h) Off Maintenance inspection
- Water Reticulation, Sewer Reticulation, Drainage
- (a) Backfilling
 - (b) Permanent erosion and sedimentation control measures
 - (c) Drainage channels
 - (d) Final inspection - on maintenance
 - (e) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

34. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

35. The works are to be completed in accordance with Councils Development Control Plans and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

36. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

37. Erosion and sediment control measures shall be installed and maintained to the satisfaction of Council's Director of Environment and Community Services throughout the duration of the works.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

38. Prior to issue of a subdivision certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

39. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0) Sector11_4	\$2,590
(b) Open Space (Structured): S94 Plan No. 5	\$1,560
(c) Open Space (Casual): S94 Plan No. 5	\$334
(d) Shirewide Library Facilities: S94 Plan No. 11	\$1,376
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$262
(f) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$400
(g) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$2,537.60
(h) Regional Open Space (Structured) S94 Plan No. 26	\$4,654
(i) Regional Open Space (Casual) S94 Plan No. 26	\$1,710

[PCC0215/PSC0175]

- 40. Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.**

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

- 41. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.**

[PSC0725]

- 42. Submission to the Principle Certifying Authority, Certification for the stability of any retaining structures in excess of 1.2m erected on the site by a suitably qualified structural engineer.**

[PSC0775]

- 43. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.**

[PSC0825]

- 44. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:**

- (a) Easements for sewer, water supply and drainage over ALL services on private property.**
- (b) Right of Carriage Way.**

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

45. **Submit to Council's property officer an appropriate plan indicating the rural address number to both new and existing lots for approval. Prior to the issue of a Subdivision Certificate, each lot shall have its' rural address number displayed in accordance with Council's "Rural Addressing Policy".**

[PSC0845]

46. **Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.**

[PSC0855]

47. **Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.**

[PSC0865]

48. **Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.**

The following information must accompany an application:

- (a) **original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.**

- (b) **all detail as tabled within DCP16, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.**

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

49. **Prior to the application for a Subdivision Certificate a Compliance Certificate or Certificates shall be obtained from Council OR an accredited certifier for the following:-**

- (a) **Compliance Certificate - Roads**
(b) **Compliance Certificate - Drainage**

Note:

1. All compliance certificate applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and Councils adopted Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

50. Your attention is invited to conditions of Development Consent DA05/1013. Compliance with the conditions of the development consent and the construction certificate is required prior to the issue of a subdivision certificate.

[PSC0935]

51. Prior to the issue of a Subdivision Certificate, a properly dimensioned plan shall be lodged with Council showing the relative position of existing fences, road formation and boundaries. Any encroaching road boundary fence is to be relocated to the correct alignment prior to issuing a Subdivision Certificate. Any road widening deemed necessary following submission of the plan shall be dedicated at no cost to Council.

[PSC0945]

52. The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC1165]

53. The production of written evidence from the local electricity supply authority certifying that the reticulation of overhead electricity (rural subdivisions) has been completed.

[PSC1175]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. A 20m Asset Protection Zone (20m IPA) shall be constructed and maintained around the existing dwellings on proposed Lots 1, 2 & 3 as outlined within Section 4.2.2 in 'Planning for Bushfire Protection 2001'.
2. In recognition of the substantial amount of vegetation in the vicinity of the subject site and the expected ember attack, all of the existing dwellings on proposed Lots 1, 2 & 3 should be upgraded to improve ember protection by enclosing all openings (excluding roof tile spaces) or covering openings with a non-corrosive metal screen.

3. **Access shall be upgraded to comply with Section 4.3.2 of 'Planning for Bushfire Protection 2001'.**
4. **A minimum of 10,000 litres of water shall be provided for the exclusive use for fire fighting purposes for each of the existing dwellings. These tanks should have a 65mm storz fitting and ball gate valve installed and should be serviced by a minimum of 3kW (5hp) petrol or diesel powered pump.**

In recognition of the extenuating circumstances involved in this development, the Rural Fire Service has assessed this application using the principles of 'infill development'. However, any future developments on the proposed lots will have to fully comply with the requirements of 'Planning for Bushfire Protection 2001'.

REPORT:

Applicant: Mr LE Powell, Mr DJ Powell, Mr LW Powell & Mrs RW Shoobridge
Owner: Mr LE Powell, Mr DJ Powell, Mrs GL Powell, Mr LW Powell & Mrs RW Shoobridge
Location: Lot 8 DP 618883 No. 782-786 Upper Burringbar Road, Upper Burringbar
Zoning: 1(b1) Agricultural Protection
Cost: Nil

BACKGROUND:

Council is in receipt of an application to undertake a three (3) lot rural subdivision.

There are currently four (4) dwellings on the subject property, none of which have formal Council approval.

The proposed subdivision seeks to create three (3) parcels of land, each with a legal dwelling entitlement (pursuant to Clause 11 of the LEP) and each configured to accommodate an existing dwelling. The fourth dwelling is to be removed/demolished.

The proposed subdivision will result in the following configuration:-

Proposed Lot 1: Having an area of approximately 14.1 hectares and a frontage of approximately 155m to Upper Burringbar Road. This lot contains an existing dwelling house and will be retained by Mr Lance Powell. Access to the dwelling is provided via an existing driveway from Upper Burringbar Road.

Proposed Lot 2: Having an area of approximately 44.81 hectares and a frontage of approximately 35m to Upper Burringbar Road. This lot contains an existing dwelling house and will be retained by Mr Laurie Powell. Access to the dwellings is provided by an existing driveway and proposed right of carriageway from Upper Burringbar Road.

Proposed Lot 3: Having an area of approximately 24.14 hectares and a frontage of approximately 800m to Upper Burringbar Road. This lot contains two existing dwelling houses and will be retained by Mr Laurie Powell. Access to the dwelling to be retained is provided via an existing driveway. The western dwelling will be relocated or demolished.

In effect, the application has the effect of formalising a situation on the site that has existed for a number of years. Whilst the subject land is over a single title and despite the absence of any Council approvals, the site effectively functions as three (3) separate properties; each with a separate dwelling and separate associated agricultural activities.

SITE HISTORY

The subject land was created by the registration of DP 618883 in 1982. As indicated in the aerial photo, there are four existing dwelling houses on the subject property – none of which have formal Council approval. The location and status of each of these dwellings is addressed in the following table:-

Dwelling Location	Approximate date of construction and details	Comment
Proposed Lot 1	<p>Approximate date of construction: 20 years old</p> <p>Foundations: Piers and beam timber floor</p> <p>Wall Cladding: Brick and weatherboard</p> <p>Roofing: Colourbond</p> <p>Number of Storeys: 2</p> <p>Number of Bedrooms: 4</p> <p>Effluent Disposal: Septic tank</p> <p>Water Supply: Rainwater tanks 3 x 23,000 litre</p> <p>Power: Yes</p> <p>Telephone: Yes</p>	<p>There is no evidence on Council records of any formal approval being granted for the subject dwelling. As such its current status is considered unlawful.</p> <p>Approval of the subdivision will create a dwelling entitlement on the proposed lot by virtue of Clause 11 of the LEP.</p> <p>Should the subdivision be approved, the applicant would be required to obtain a building certificate for the dwelling prior to the issue of a subdivision certificate.</p>

<p>Proposed Lot 2</p>	<p>Approximate date of construction: 25 years old</p> <p>Foundations: Concrete slab</p> <p>Wall Cladding: Cavity brick</p> <p>Roofing: Colourbond</p> <p>Number of Storeys: 1</p> <p>Number of Bedrooms: 3</p> <p>Effluent Disposal: Septic tank</p> <p>Water Supply: Rainwater tanks 2 x 23,000 litre</p> <p>Power: Yes</p> <p>Telephone: Yes</p>	<p>As with the dwelling on proposed Lot 1, there is no evidence on Council records of any formal approval being granted for the subject dwelling.</p> <p>Approval of the subdivision will create a dwelling entitlement on the proposed lot by virtue of Clause 11 of the LEP.</p> <p>Should the subdivision be approved, the applicant would be required to obtain a building certificate for the dwelling prior to the issue of a subdivision certificate.</p>
<p>Proposed Lot 3</p>	<p>Approximate date of construction: Circa 1930's (original house) subsequent alterations and additions</p> <p>Foundations: Piers</p> <p>Wall Cladding: Weatherboard and brick</p> <p>Roofing: Galvanised iron and colourbond</p> <p>Number of Storeys: 1</p> <p>Number of Bedrooms: 3</p> <p>Effluent Disposal: Septic tank (estimated 40 years old)</p> <p>Water Supply: Gravity fed spring tank estimated 50 years plus</p> <p>Power: Yes</p> <p>Telephone: Yes</p>	<p>The subject dwelling was constructed prior to Council's planning controls coming into place and may be considered lawful under existing use rights, however no supporting information has been provided in this regard.</p> <p>Approval of the subdivision will create a dwelling entitlement on the proposed lot by virtue of Clause 11 of the LEP.</p> <p>Should the subdivision be approved, the applicant would be required to obtain a building certificate for the dwelling prior to the issue of a subdivision certificate.</p>
<p>Proposed Lot 3</p>	<p>To be removed or demolished.</p>	

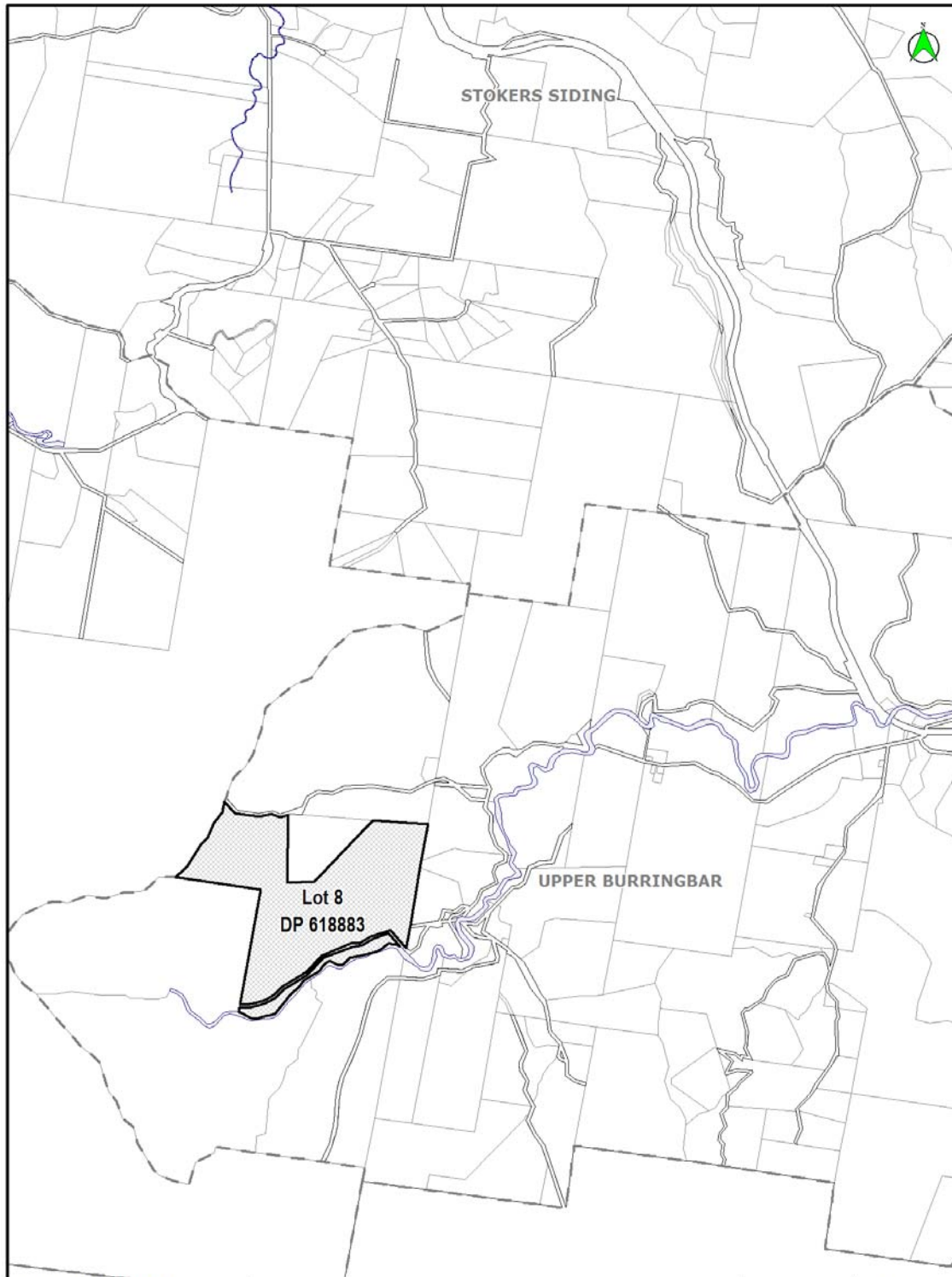
Most of the site was identified as Special Agricultural land by the Department of Agriculture in the late 1980's. This classification was then reflected in the Tweed Local Environmental Plan 1987 and confirmed by the Tweed Local Environmental Plan 2000. Under the provisions of these plans, the minimum lot size applicable is ten (10) hectares.

The beneficiaries of the will of the now deceased previous owner have been negotiating for several years in relation to the division of the land into three (3) parcels which are to be transferred to individual beneficiaries. Resolution of this issue has involved Supreme Court proceedings.

As recently as 7 December 2004, the parties reached agreement to dispose of the courts proceedings subject to approval of a three (3) lot subdivision, consistent with the current 1(b1) zoning.

As indicated on the attached aerial photograph, significant areas of the site have been used historically and remain currently used for intensive agricultural purposes, involving banana plantations and other small crops.

SITE DIAGRAM:



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Tweed Shire Council
 Lot 8 DP 618883
 No. 782-786 Upper Burringbar Road, Upper Burringbar
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 05/June/2006 Scale: 1:30,000



STRATEGIC PLANNING UNIT
Site Plan
 Sheet: 1 of 1

Aerial Photograph

The subject land has a total area of 82.05 hectares and has extensive frontage to upper Burringbar Road which is constructed to a two (2) lane, sealed standard from Burringbar to Jowletts Road, then a two (2) lane, gravel road to Geles Road and then a narrower, nominal two (2) lane gravel road to the site.

In effect, the site has been operated as three (3) separate properties for approximately 25 years. Agricultural activities currently and previously undertaken on each proposed lot include:-

Proposed Lot 1	Bananas, avocados and vegetables.
Proposed Lot 2	Bananas and avocados.
Proposed Lot 3	Bananas, citrus fruit and finger limes (proposed). The activities will be expanded if/when tenure is secured.

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

Under the provisions of the Plan, the subject land is zoned part 7(l) Environmental Protection (Habitat) and part 1(b1) Agricultural Protection.

The proposed subdivision is consistent with the relevant zone objectives as it will allow for the continuation of existing agricultural uses and will not adversely affect the rural character or amenity of the area.

The proposed lots comply with the minimum lot size requirement of 10 hectares for the 1(b1) land as per Clause 20(2)(b).

Proposed lot 2 does not comply with the 40 hectare development standard applicable in the 7(l) zone under Clause 20(2)(a). The applicant has lodged a SEPP No.1 Objection in this regard and is addressed later in this report.

Clause 15 – Availability of Essential Services

Existing dwelling houses are serviced by rainwater tanks and on site effluent treatment systems. Council's Environment and Health unit have indicated that as the proposal does not involve any alterations to the dwellings, no specific investigation as to the adequacy of the systems has been undertaken. Instead, it is understood the on-site systems will be reviewed via Council's on-going on-site program in due course. The dwelling that is to be demolished however must have the associated on-site sewage management system decommissioned with suitable conditions to apply in this regard. Power and telephone services are also available to each existing dwelling.

Clause 28 – Development in 7(l) Zoned Land

The applicant has provided a Plan of Management in accordance with Clause 28(4)(c). The Plan is considered satisfactory in ensuring the any wildlife habitat is protected from the impacts of the proposed development.

North Coast Regional Environmental Plan 1988

The proposed subdivision is consistent with the objectives of the REP, particularly in relation to Clause 12 pertaining to impacts on agricultural activities.

State Environmental Planning Policy No.1 – Development Standards

As established, the proposed subdivision requires a variation to the 40 hectare minimum allotment size stipulated under Clause 20(2)(a) of the LEP.

Clause 20(2)(a) states:-

(2) Consent may only be granted to the subdivision of land:

(a) within Zone 1(a), 1(b2), 7(a), 7(d) or 7(l) if the area of each allotment created is at least 40 hectares

The variation is required in relation to proposed Lot 2 which despite being in excess of 40 hectares in size, incorporates an area of land zoned 7(l) approximately 15 hectares in size.

As such, a variation to the development standard is required.

The underlying objectives of the development standard are to prevent the fragmentation of rural land, ensure the scenic and natural environments are protected and maintain agricultural viability.

In this regard, the applicant has provided the following matters for consideration in support of a variation:-

- There is only approximately 15 hectares of 7(l) land in the property;
- The whole of the 7(l) land will be contained in one lot;
- No change in the use of the 7(l) land is proposed;
- No fragmentation of the 7(l) land will occur;
- It is impossible to comply with the 40 hectare development standard because of the split zoning on the property.

Given the size of the variation sought, the application required concurrence from the Director General of the Department of Planning.

Concurrence was subsequently provided in a letter dated 4 November 2005 for the following reason:-

“Concurrence was granted in this instance as the proposed subdivision is unlikely to result in an adverse impact on protected habitat.”

In light of the findings of the Department and having regard to the matters raised by the applicant, it is considered that strict compliance with the 40 hectare minimum lot size requirements is both unnecessary and unreasonable in the circumstances of the case.

It is therefore concluded that the variation sought under SEPP No.1 warrants support in this instance.

(a) (ii) **The Provisions of any Draft Environmental Planning Instruments**

Draft Local Environmental Plan No.21 – Vegetation Management

Draft Local Environmental Plan No.21 proposes to rezone virtually all of the site to 1(a1) Rural (Steep Land/Escarpment). This change in zoning would have significant implications to the development potential of the site. Particularly, the draft plan would only allow for the erection of a dwelling house on land that has an area of 40 hectares or more.

The objectives of the proposed 1(a1) zone are:

Primary Objectives

- *to identify and protect soils on steep land in the rural areas of Tweed Shire that are susceptible to land degradation and excessive soil erosion.*
- *to protect significant natural areas and environmentally sensitive ecosystems on steep land from developments that are likely to have a significant adverse impact on ecological, scenic and/or aboriginal cultural values.*
- *to enable rural land to be continued to be used for agricultural, forestry and natural resource utilisation.*
- *to protect rural character and amenity.*

Secondary Objectives

- *to provide opportunities for certain types of development that are compatible with the primary objectives of the zone.*

Council's Strategic Planning Co-ordinator has provided the following comments on the status of the LEP amendment in the context of the proposed subdivision: -

“Timing

The timing for completion of the draft LEP 21 process is uncertain. Due to a lack of resources (officers) this project has stalled and hasn't progressed too far since the public exhibition of the document. If Council is able to employ more resources or reshuffle current work programs to accommodate draft LEP Amendment 21 it may be possible to have the Plan finalised with 6+ months.

Alternatively, Council is looking to undertake a major review of its LEP in the near future to align with a standard LEP Template provided by the Department of Planning. Depending on timing, draft LEP 21 may be encapsulated within this major LEP Review.

Draft Plan

Draft LEP 21 is still considered a draft document. It has been publicly exhibited and Council has received numerous submissions to the draft Plan. Council has to review the draft Plan whilst considering the submissions received. This will entail in house review as well as possibly engaging Ecograph to ground truth certain sites. The draft Plan recommended to the Council and the Minister may, or may not, be different to the current Plan.

LEP Template

The zones and some of the provisions proposed by draft LEP 21 are inconsistent with the standard LEP Template exhibited by the Department late last year. It is understood that the Departments final LEP Template is to be released soon and this may have some bearing on the recommended draft LEP 21 provisions.”

The comments go on to say that the application should be assessed on its merits adding that ‘on the face of it, the proposed subdivision simply has the effect of formalising what already exists on site.’

With regard to the zone objectives, the followings observations are made:-

- The subject land does not appear excessively steep nor subject to significant erosion or landslip;
- The scenic amenity, ecological values and cultural heritage of the area are not detrimentally impacted upon through the existing dwelling sites and access tracks. These values can be preserved;
- Farming activity is evident on the flatter areas of the surrounding land. The proposed subdivision is not envisaged to impact on these farming practices.

In conclusion, whilst the current Tweed LEP 2000 provides for the proposed subdivision application, the provisions of draft LEP 21 would prohibit the erection of a dwelling house on an allotment less than 40 hectares – thereby removing the opportunity for the applicant to retain three (3) of the four (4) existing dwellings on the subject land, each on a separate title. However, given the uncertainty surrounding draft LEP Amendment No 21, concerning timing, resourcing and what the final provisions of the Plan are actually going to be, the draft LEP is not considered sufficient grounds to warrant refusal.

(a) (iii) Development Control Plans (DCP's)

Development Control Plan No.16 – Subdivision Manual

Council's Development Engineer has reviewed the application with respect to the provisions of DCP No.16. The application is considered satisfactory, provided certain road upgrading works are undertaken along Upper Burringbar Road. Suitable conditions of consent are proposed in this regard.

(a) (iv) Any Matters Prescribed by the Regulations

Satisfactory.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

There are no detrimental impacts envisaged as a result of the proposed subdivision. The dwellings, whilst unlawful, are pre-existing, therefore removing any associated impacts that would otherwise arise from constructing necessary access roads/driveways or establishing a suitable building envelope.

The subdivision represents an opportunity to formalise the existing uses on the subject land, with each proposed allotment to retain an existing dwelling and provide for the continuation of agricultural uses.

(c) Suitability of the site for the development

The subject site is considered suitable in accommodating the proposed subdivision. The parent parcel already provides for four (4) dwellings sites, with the proposal seeking to formalise three (3) of them and remove/demolish the fourth.

The application required an Integrated Referral to the NSW Rural Fire Service due to the bushfire prone nature of the land. In a response dated 9 November 2005, a Bushfire Safety Authority was granted subject to certain conditions of consent.

Provided the bushfire conditions are met, and the necessary road upgrade works are carried out (as per the requirements of DCP No.16), the proposed subdivision represents a sensible outcome, formalising the presence of the existing dwellings and preserving the agricultural use of the land.

(d) Any submissions made in accordance with the Act or Regulations

The application did not require notification under Council's policy. As such, no submissions were received.

(e) Public interest

The proposed subdivision is considered consistent with the public interest.

OPTIONS:

1. Approve the proposed development in accordance with the recommended conditions.
2. Refuse the development application and commence action against the unlawful dwellings on the subject property.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The applicant has the right of appeal to the Land and Environment Court should they be dissatisfied with the determination.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed subdivision is relatively minor in nature and is not likely to result in any significant adverse environmental impacts. No physical work is proposed as part of the application and no change would occur to the nature or use of the land.

The proposal will enable the beneficiaries of the estate to obtain title to those parts of the land which they have occupied and farmed for many years and on which their dwelling houses and other improvements exist. In view of the above and having regard to the findings of the report, the application is considered suitable for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P5 [PD-PC] Development Application DA05/0852 for Illumination of a Bowling Green at Lot 468 DP 755701, Marine Parade, Kingscliff

ORIGIN:

Development Assessment

FILE NO: DA05/0852 Pt1

SUMMARY OF REPORT:

Council is in receipt of a development application for the Kingscliff Bowls Club to illuminate an existing bowling green for evening recreational activities, between the hours of 5:00pm and 9:30pm, seven (7) days per week. The proposal involves the installation of four (4) lighting devices and support poles (12 metres in height) around the existing central bowling green.

Fifteen (15) letters of objection were received during the exhibition period and are addressed in this report.

RECOMMENDATION:

That Development Application DA05/0852 for an illumination of bowling green at Lot 468 DP 755701, Marine Parade Kingscliff be approved subject to the following conditions: -

GENERAL

- 1. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 0502/EWD/01 (B), 0502/EWD/01/1 (1), 0520/EWD/01/2 (2), 0520/EWD/01/3 (2) prepared by Rubicon Design & Construct Pty Ltd and dated May 2005, except where varied by the conditions of this consent.**

[GEN0005]
- 2. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0115]
- 3. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.**

[GEN0135]
- 4. Illumination of the centre bowling green shall comply with the Report on Proposed Floodlighting to Kingscliff Bowls Central Green prepared by Cushway Blackford & Associates Pty Ltd dated 11 November 2005 (Project No: 138-63/1).**

[GENNS01]

5. Illumination of the site for twilight bowls will be limited to the centre green and between the hours of 5:00pm and 9:30pm Monday to Sunday. Play shall cease by this time.

[GENNS02]

6. The operation of the Club shall be in accordance with the 'Noise Management Plan for Night Bowls' prepared by the Kingscliff Bowls Club Ltd trading as Kingscliff Beach Club dated 27 March 2006.

[GENNS03]

PRIOR TO COMMENCEMENT OF WORK

7. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
- (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
- (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

8. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

9. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:
- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
 - (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
 - (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

10. Sewer main, stormwater line or other underground infrastructure within or adjacent to the site is to be accurately located and the Principal Certifying Authority advised of its location and depth prior to start of any building works.

[PCW0965]

DURING CONSTRUCTION

11. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm
No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

12. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

13. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

14. The structure is to be sited at least one metre horizontally clear of sewer main on site. All footings and slabs within the area of influence of the sewer main are to be designed by a practising Structural Engineer. The engineer is to submit a certification to the Principal Certifying Authority that the design of such footings and slabs will ensure that all building loads will be transferred to the foundation material and will not effect or be affected by the sewer main.

[DUR2645]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

15. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

16. On completion of work a certificate signed by a practising structural engineer is to be submitted to the Principal Certifying Authority to certify the structural adequacy of the structure.

[POC0805]

USE

17. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like.

[USE0125]

18. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises.

[USE0205]

REPORT:

Applicant: Rubicon Design & Construct Ltd
Owner: Kingscliff Bowls Club Ltd
Location: Lot 468 DP 755701 Marine Parade, Kingscliff
Zoning: 6(b) Recreation
Cost: \$30,000

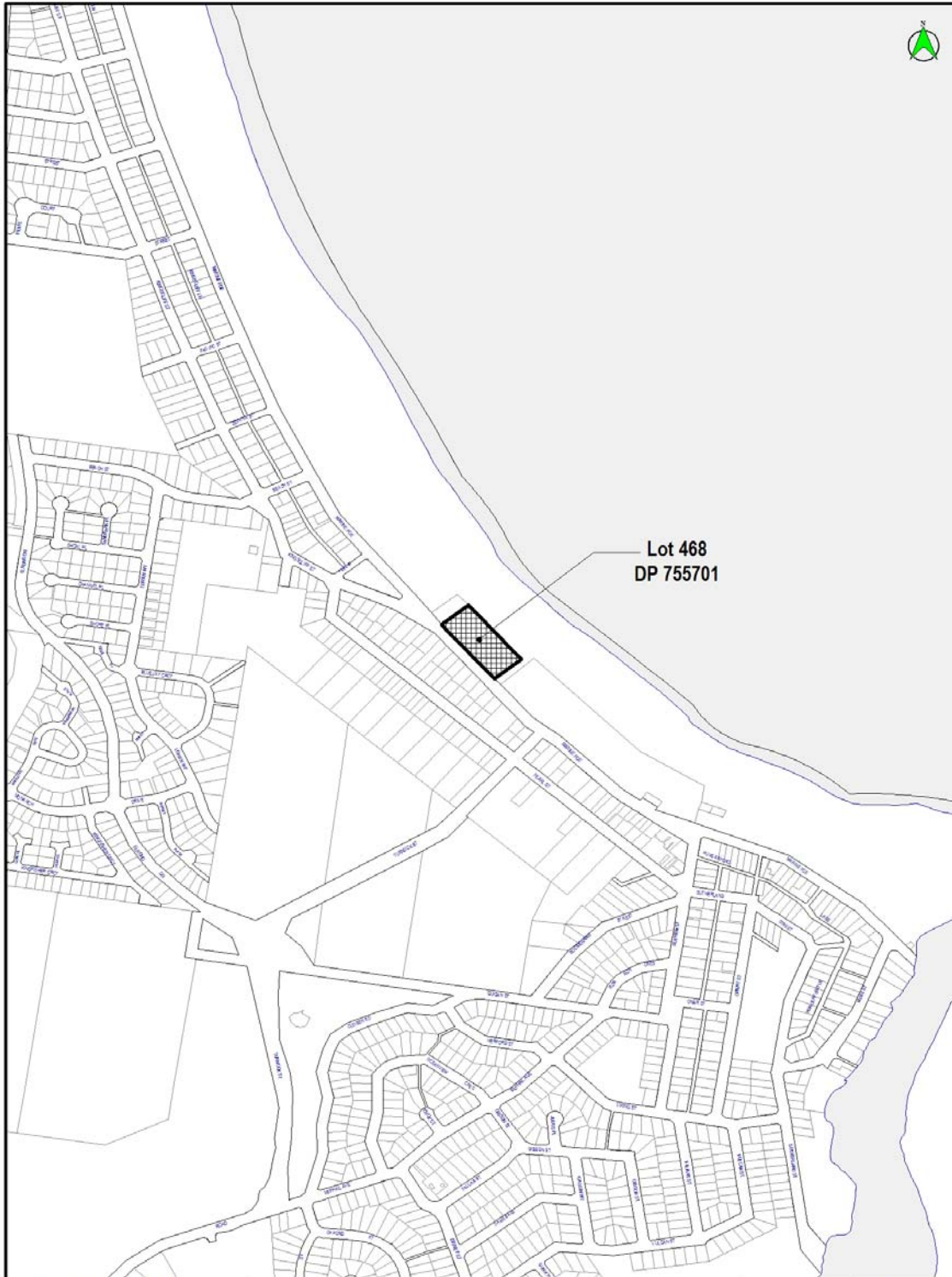
BACKGROUND:

The application proposes the installation of lights at the Kingscliff Bowls Club, to provide for the illumination of one (1) existing bowling green after daylight hours, up until 9:30pm, seven (7) days a week.

The bowling greens are currently unusable after daylight hours. It is proposed to provide on-site lighting to enable the illumination of the central bowling green, thereby allowing the club to extend the operational hours of the bowling green after daylight.

The Kingscliff Bowls Club is located on the north-eastern side of Marine Parade, near the northern fringe of the town centre. The site is roughly rectangular in shape, incorporating an area of approximately 8000m². The site incorporates a frontage width of approximately 136 metres to Marine Parade, with a depth of approximately 60 metres. The topography of the site is relatively flat. The club provides for three (3) bowling greens near the frontage of the site along Marine Parade. A clubhouse incorporating a bar, restaurant and gaming facilities is located behind the greens. A mix of existing low to medium density residential development is present on the opposite side of Marine Parade.

SITE DIAGRAM:



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Tweed Shire Council

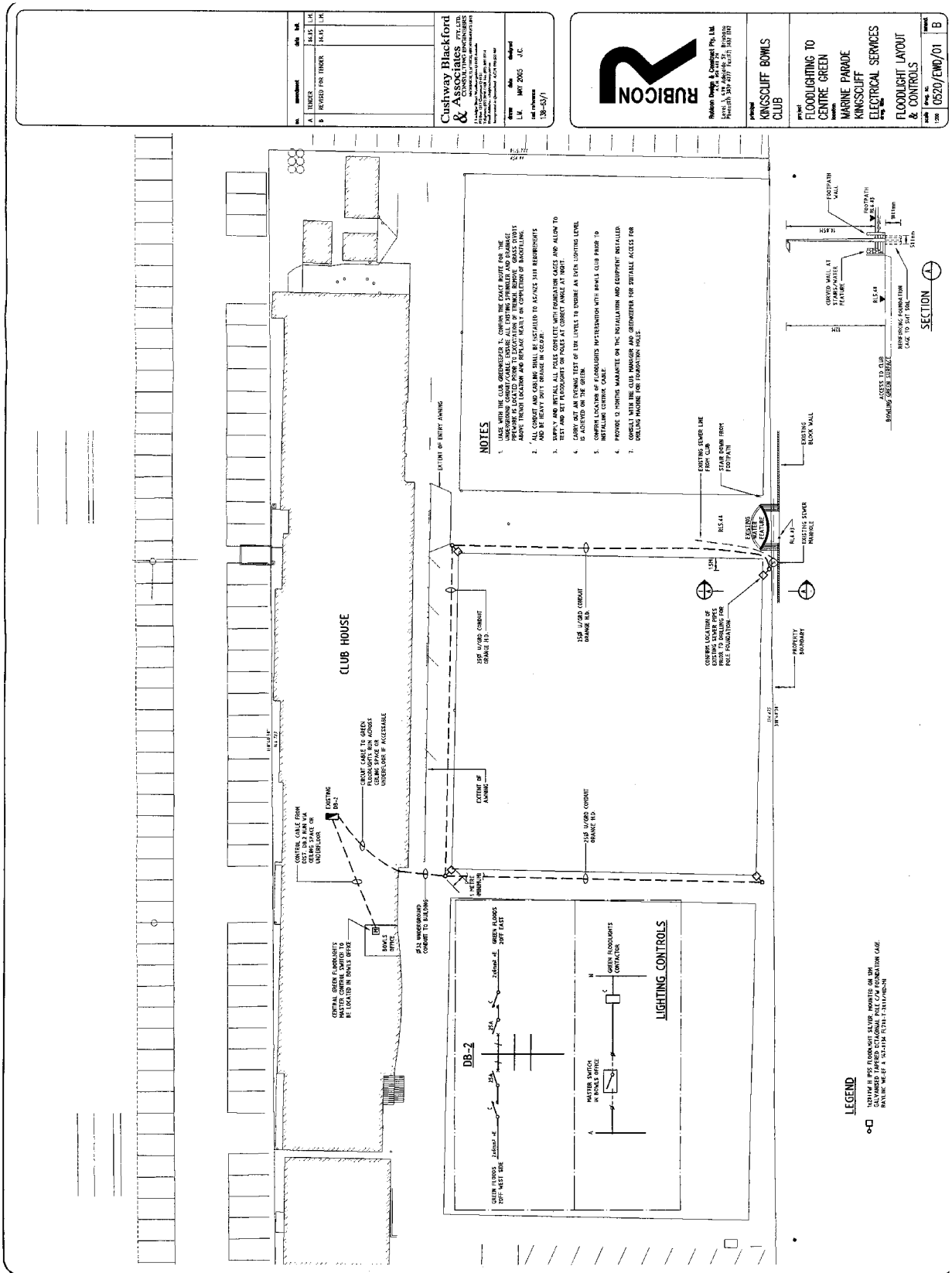
Lot 468 DP 755701
 Marine Parade, Kingscliff



STRATEGIC
 PLANNING UNIT
**Site
 Plan**

File: N:\MapInfo 7...\A4P Site Plan.Wor Author: J.Batchelor Date: 21/June/2006 Scale: 1:10,000 Sheet: 1 of 1

Plans



1 FOR GENERAL APPROVAL (S15)

Cushway Blackitt & Associates Pty Ltd
 11/12-14/16 The Esplanade, Kingscliff NSW 2486
 Tel: (08) 9372 1111 Fax: (08) 9372 1112
 Email: info@cushway.com.au
 Website: www.cushway.com.au

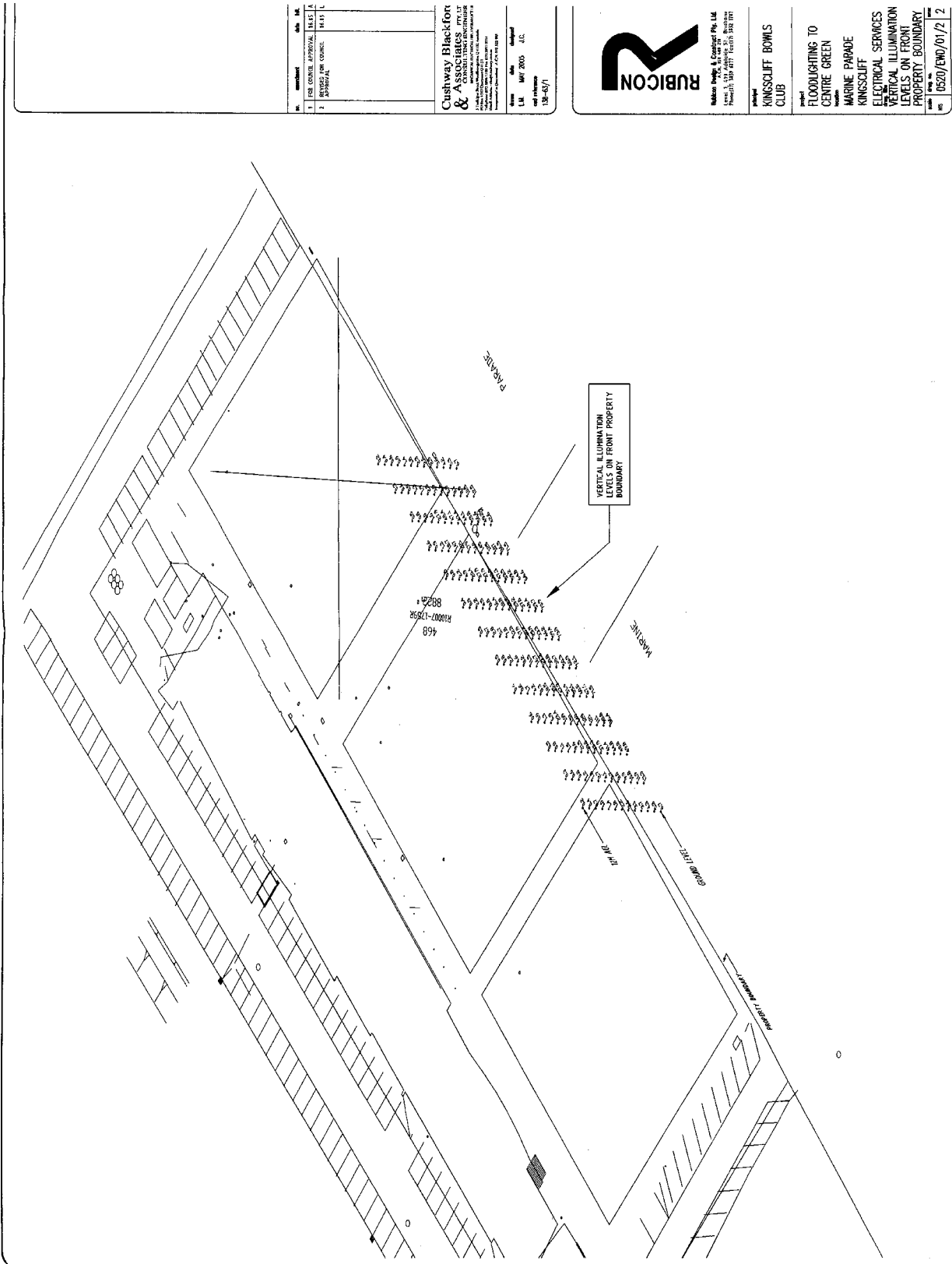
RUBICON
 Rubicon Design & Contract Pty. L.
 1/15-1/17 The Esplanade, Kingscliff NSW 2486
 Tel: (08) 9372 1111 Fax: (08) 9372 1112
 Email: info@rubicon.com.au
 Website: www.rubicon.com.au

Project: KINGSCLIFF BOWLS CLUB
Prepared: FOODLIGHTING TO CENTRE GREEN MARINE PARADE KINGSCLIFF ELECTRICAL SERVICE
Drawn: ILLUMINATION LEVEL ON GREEN
Date: 05/30/06/01/1

Luminaire Schedule		Arrangement		Spacing	
Symbol	Code	Symbol	Code	Symbol	Code
□	17-0036	□	17-0036	□	17-0036

Name of Schedule		Code		Symbol	
Symbol	Code	Symbol	Code	Symbol	Code
□	17-0036	□	17-0036	□	17-0036

Notes:
 1. ALL DIMENSIONS ARE IN METERS.
 2. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 3. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
 4. ALL DIMENSIONS ARE TO FACE UNLESS OTHERWISE SPECIFIED.
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NO.	DESCRIPTION	DATE	BY
1	FOR COUNCIL APPROVAL	18.11.05	A
2	REVISED FOR COUNCIL APPROVAL	14.05.06	L

Cushway Blackfort & Associates PTY LTD
 10/1100/175R
 468
 8824
 11000/175R
 468
 8824

DATE: 18 MAY 2005
 TIME: 13:45/1

RUBICON

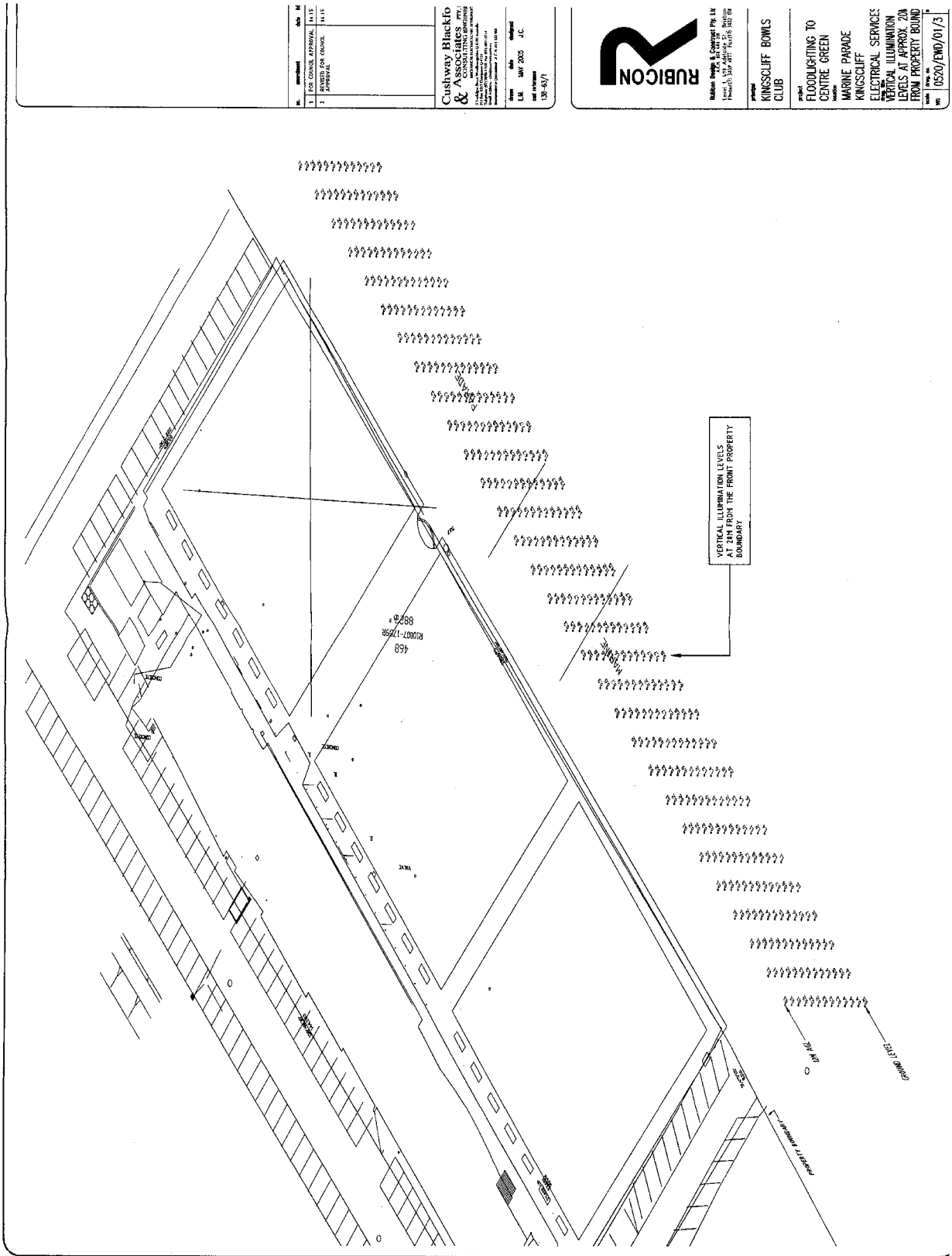
Robert M. Blackfort Pty. Ltd.
 10/1100/175R
 468
 8824

PROJECT: KINGSCLIFF BOWLS CLUB

DESCRIPTION: FLOODLIGHTING TO CENTRE GREEN MARINE PARADE KINGSCLIFF ELECTRICAL SERVICES VERTICAL ILLUMINATION LEVELS ON FRONT PROPERTY BOUNDARY

DATE: 18 MAY 2005

TIME: 13:45/1



CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The subject site is zoned 6(b) Recreation under Clause 11 of the Tweed LEP. The proposed illumination is permissible with consent within the 6(b) zone.

The primary objective of the 6(b) zone is:-

'To designate land, whether in public or private ownership, which is or may be used primarily for recreational purposes.'

The existing bowls club (defined as a 'recreation area') is consistent with the above objective, in that it is exclusively utilised for recreational purposes by members and guests. The proposed illumination is intended to enhance the existing use, by allowing evening recreational activities to occur on the site. The proposed illumination complements the existing recreational use of the site and is compatible with the relevant zone objectives.

North Coast Regional Environmental Plan 1988

The proposed lighting is consistent with the objectives of the NCREP, particularly in relation to Clauses 81 and 82 pertaining to development adjacent to the ocean and specialised recreational facilities.

State Environmental Planning Policy No.71 – Coastal Protection

The proposed development is satisfactory with regard to the matters outlined in Clause 8 and is considered to be in accordance with the intent of the Policy.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

No draft EPI's applicable.

(a) (iii) Development Control Plans (DCP's)

Development Control Plan No.43 – Kingscliff

The proposed illumination of the central bowling green is not likely to compromise any of the strategic objectives or visions for Kingscliff as outlined in the DCP. The subject site is located in the Kingscliff North Precinct for the purposes of the plan. The majority of the precinct objectives relate to the desired nature of residential development and are not strictly relevant to the proposal. The applicant has reported that the proposal will improve streetscape quality by providing increased illumination of the public footpath along Marine Parade. As the proposal does not relate to a new building, guidelines relating to building design are not applicable. Overall, the proposal is considered compatible with the intent of the Plan.

(a) (iv) Any Matters Prescribed by the Regulations

Satisfactory.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

The impacts of most significance to the proposed light poles relate to light spillage, glare and noise generation.

On each these matters the applicant has noted that, as the proposal involves illumination of the central bowling green only, the evening recreational activities are contained to the centre of the site – away from the northern and southern property boundaries. Consequently, the potential impacts of noise and light spill toward the public open space and caravan park areas adjoining the site are minimised.

In terms of light spill, glare and associated impacts, the applicant has provided a report by a consulting engineer, outlining the relative light intensities at different locations in and around the central bowling green and demonstrating compliance with the relevant Australian Standards. Given the technical nature of the data provided, the supporting report was reviewed by Council's Environment and Health Officer with the following comments provided in response:-

'The floodlighting has been designed to AS2560.2.8 (1994) Guide to Sports lighting – Specific Recommendations for bowling greens.

In accordance with the requirements of the Australian Standard, the applicant has provided a plan with a vertical plane of calculation points (demonstrating relative levels of luminosity) up to a height of 14 metres at the boundary and also approximately 20 metres from the bowls club (toward the existing residential properties on the opposite side of Marine Parade).

The Australian Standard allows a maximum of 25 lux (measurement for luminosity) during pre-curfew hours on the boundary of nearby residential properties. The proposed illuminance will be at 15 lux at 20 metres from the site, which complies with this maximum limit.

The luminare (light fitting) will be installed with no tilt, with all light output directed below horizontal. No further light spill control devices are considered necessary by the consultants report. Unless looking up into the lights from directly below, it is stated that there will be no glare problem. Low glare optics will be used in the proposed luminaries that will minimise the effect of direct glare on road users.

The green itself is grass, which is considered to have a highly diffused and non-reflective surface and thereby a low reflected illuminance. It is unlikely that any direct reflection will occur.'

Based on the comments above, and having particular regard to the proposal's compliance with the relevant Australian Standards, the impacts associated with light spillage are not considered significant enough to warrant refusal of the application. The lighting has been deliberately designed to minimise the impact of light spill and glare and should not significantly detract from the amenity of adjoining residents.

In addressing the issue of noise, the applicant has engaged an acoustic consultant to prepare an Environmental Noise Impact Report.

The report outlines that a 9:30pm finish time is proposed and that the green will be used for practice by club members and for limited competition.

The main noise sources associated with the bowls are players talking, players clapping and the sound generated from the bowls hitting each other. As such, the bulk of the noise impacts are dependent on the behaviour of the players.

To better ensure the issue of noise was properly addressed, Council's Environment and Health Unit required a Noise Management Plan (subsequently provided) which details the protocol for managing any noise generated by bowlers or on-lookers, handling any complaints and generally mitigating any impacts on adjoining residents.

Subject to a condition of consent relating to the enforcement of the Noise Management Plan, the associated noise impacts are considered within reasonable limits.

Further discussion on the potential impacts is provided in Section (d) of this report relating to public submissions.

(c) Suitability of the site for the development

The proposal represents an extension of the existing recreational use of the site and is considered suitable given; the long term operations of the club, the locations amongst an extensive public open space corridor and the absence of any significant impacts to adjoining residents.

(d) Any submissions made in accordance with the Act or Regulations

The application was notified for a two (2) week period in accordance with Council's Notification Policy. During this period, fifteen (15) submissions were received and can be generally be grouped under the headings of Visual Amenity, Noise, Parking and Traffic and Residential Amenity. A discussion on each of these issues is provided below:-

Issue: Visual Amenity – the proposed light poles will have an adverse visual impact when viewed from the existing residential units along Marine Parade.

Comment: The proposed lighting of the central bowling green will involve the installation of four (4) light support poles and the associated lighting fixtures. The support poles are relatively slim line, with a shallow light fitting directed downward toward the surface of the green. The poles incorporate a maximum height of 12 metres above the surface of the green and 10.85 metres above the level of the adjacent pedestrian footpath.

It is considered that the characteristics of these relatively narrow support poles are not of a nature that will adversely interrupt views from surrounding residential properties. To further diminish the visibility of these poles in comparison to that of a raw metal finish, the applicant has suggested the use of a black finish to the pole supports and light fixtures. A suitable condition of consent is proposed in this regard.

Noise Impact: There would be increase noise (from patrons, traffic, green keeping equipment) as a result of evening usage.

Comment: An Environmental Noise Impact Report has been prepared by Jay Carter Acoustical Consultant with regard to the proposed illumination of the central bowling green. The assessment finds that the bulk of the noise impacts associated with the play on the green will be compliant with the relevant noise criteria. The applicant has prepared a Noise Management Plan to further mitigate any potential noise impacts. All the supporting information was reviewed by Council's Environment and Health Officer and found to be satisfactory subject to conditions of consent. Overall, it is considered that the likely increase in noise impacts is not considered significant enough to warrant refusal of the application.

Parking and Traffic Impact: The proposal will result in a further increase in traffic to/from the club in the evenings resulting in increased noise and further strain on existing car parking availability.

Comment: In response to the matters raised by the objectors, the applicant commissioned a Traffic Impact Assessment by a suitably qualified consultant. The assessment considers the proposed operations in the context of the existing club operations and the capacity of the central bowling green to determine the maximum number of patrons associated with the proposal.

The assessment finds that the proposed use will generate an additional eleven (11) vehicles visiting the club premises during the evening hours, proposed. It is noted that this information was also incorporated into the Noise Impact Report.

With regard to the capacity of on-site car parking available to the club, it is relevant to note that the proposed evening use involves the central bowling green only. The site occupied by the bowling club incorporates entry and exit driveways from Marine Parade, and in conjunction with the adjoining public car park along the beachfront, provides access to a total of 148 on-site car parking spaces.

It is understood that the existing on-site parking adequately accommodates parking demand generated by both the club premises and the bowling greens during daylight hours – even when all three bowling greens are in operation. In this regard, the supporting traffic report indicates that during peak periods of club operations, around 80 cars were recorded as parking on the site. This would indicate that the current car parking capacity for 148 spaces is capable of accommodating the additional 11 cars anticipated with the proposed evening bowls – particularly given only one green will be available for use.

Lighting Impact: The increased illumination associated with the proposed light poles will detrimentally impact the residential units opposite the club.

Comment: The Report on Proposed Floodlighting submitted with the application, provides detail with regard to the proposed illumination devices and includes an assessment of the impacts of the proposed lighting. The Report considers the effective light spill beyond the boundaries of the subject site in the context of the relevant Australian Standards. The Report finds that the level of illumination occurring at the boundary of the nearest affected residential properties is well within the requirements set by the relevant Standard.

The report provides the following detail with regard to the proposed illumination devices:-

'The optical system in this luminaire has been designed to provide excellent glare restriction and minimum light spill. The light distribution is asymmetric forward throw which essentially throws all light in front of the fitting at a peak vertical intensity of 57 degrees. The luminaire will be installed with no tilt, with all the light output directly below the horizontal. Because of the optical system employed in the luminaire, no further light spill control devices should need to be used. Therefore, unless looking up into the luminaire from directly below, then there will be no glare problem.'

With regard to potential impacts in terms of reflection of light glare from illuminated surfaces on the site, The Report also provides the following discussion:-

'The likelihood of reflections off the bowling green surface is hard to quantify however the fact that the surface is grass means that the surface will be highly diffused (textured, not mirror like) and not of a highly reflective colour, therefore the reflected illuminance will be low and it is unlikely that any direct reflection will occur.'

'The other factor which reduces the glare, the fact that the green is in the region of one metres below the road level.'

In consideration of these issues it is also relevant to note that there is existing street lighting along Marine Parade immediately opposite the bowls club site and adjacent to the existing residential properties.

The findings of the supporting report have been supported by Council's Environment and Health unit, concluding that the proposed illumination of the bowling green will not create any significant adverse impact to surrounding residents due to the type, intensity and direction of lighting proposed, with illumination levels outside the site being well within acceptable standards.

Residential Amenity – The proposed light poles and extended operating hours of the central bowling green will have a negative impact on privacy and the quiet enjoyment of adjacent residential properties.

Comment: The above discussions relating to the propose illumination demonstrate that, based on the supporting reports and assessment by Council's Environment and Health Officer, the proposal will not result in any significant adverse impact to the living environment of surrounding residents.

With regard to privacy concerns, it is pertinent to note that the living areas of the affected residential buildings are situated at a higher level than that of the level of the existing bowling green. It is also relevant to note that the subject buildings are generally of a design which incorporates private open space balconies oriented toward Marine Parade with primary indoor living spaces set back beyond the balcony areas. The feature of the buildings provides depth from the building edge to the indoor living spaces and assists in limiting views from the ground and street levels adjoining the site.

Given these factors, it is reasonable to conclude that the proposal is unlikely to result in any significant adverse impact to the privacy of surrounding residents.

(e) Public interest

Subject to the draft conditions of consent included in this report, the proposed light poles for the Kingscliff Bowls Club are considered consistent with the public interest.

OPTIONS:

1. Approve the development subject to conditions of consent.
2. Refuse the development and provide reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The proposed illumination of the central bowling green of the Kingscliff Bowls Club has been intentionally designed to minimise the associated impacts on adjoining residential properties.

The application provides for a significant amount of supporting information by way of specialist reports in the areas of traffic management, acoustical engineering and lighting design. Relevant Council staff have reviewed these reports and concluded that any impacts associated with the proposal are within reasonable limits.

The proposal is compliant with the relevant planning controls and Australian Standards applicable and is seen to provide increased social and recreational opportunities for members of the local community. Concerns raised in public submissions have been suitably addressed. On the basis on the above assessment, the application is recommended for conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

P6 [PD-PC] DA06/0574 Temporary Use of Norries Head Reserve, Car Park & Beach South of Norries Headland for Feature Film Prod'n Inc Use of Helicopter at Lot 7033 DP755701, Lot 7009 & 7011 DP1055324, Tweed Coast Rd & Pandanus Pde, Cabarita Beach

ORIGIN:

Development Assessment

FILE NO: DA06/0574 Pt1

SUMMARY OF REPORT:

Council is in receipt of a Development Application, which seeks consent for a temporary filming proposal (total 5 days), which would include the temporary use of various parts of Norries Headland at Cabarita Beach.

The feature film (Condemned) is primarily being shot at the Warner Roadshow Production facilities on the Gold Coast. However, Cabarita Beach has been nominated as an ideal filming location for the critical closing scenes of the feature film. Filming will involve use of a helicopter and pyrotechnic special effects to simulate a mid air explosion of the helicopter.

The Development Application was publicly advertised and adjoining owners notified. During the two-week notification period, Council received four submissions in relation to the proposal. Two of the submissions were in support of the proposal while the remaining two letters were objecting to the proposal. The issues raised in these submissions are discussed in the following report.

The primary issues in regards to this application include the potential impact on the Endangered Ecological Community – *Themeda Grasslands*, maintaining public access to the reserve, maintaining a reasonable level of amenity for local residents, and the availability of parking.

On review of these issues the application is considered to warrant conditional approval.

Please note that for this development to proceed on the nominated dates (24- 28 July 2006) Council must determine this application at the Council Meeting of 4 July 2006.

RECOMMENDATION:

That Development Application DA06/0574 for temporary use of Norries Head Reserve and car park and the beach south of Norries Headland (24-28 July 2006 inclusive) for feature film production including the use of a helicopter at Lot 7033 DP 755701; Lot 7009 & 7011 DP 1055324, Tweed Coast Road and Pandanus Parade, Cabarita Beach be approved subject to the following conditions:

- 1. The development shall be completed in accordance with;**
 - The Statement of Environmental Effects and the enclosed proposed site layout plan; and**
 - The Targeted Assessment of Significance and associated amelioration measures prepared by Aspect North dated 13 June 2006;**

except where varied by the conditions of this consent.

[GEN0005]

- 2. On erection of the temporary marquee's a certificate signed by a practising structural engineer is to be submitted to Tweed Shire Council to certify the structural adequacy of the structures.**

[GENNS01]

- 3. Prior to commencement of the use the applicant is to submit to Tweed Shire Council a Traffic Control Plan for approval. The plan is to detail the notification process for emergency services.**

[GENNS01]

- 4. Access to the public amenities building and hilltop parking area is to remain open to the public at all times.**

[GENNS01]

- 5. All signage and fencing is to be reinstated after the five day filming period.**

[GENNS01]

- 6. The site is to be inspected after the activities and any damage to the parks, headland or infrastructure is to be repaired to the satisfaction of the Manager Recreation Services.**

[GENNS01]

- 7. Should the development cause significant damage to the Themeda Grassland community at Norries Headland, the proponent will be responsible for restoration of areas affected, following completion of the development.**

[GENNS01]

8. **A bond to the value of \$10,000 is to be lodged with Council prior to commencement of the use of the site. Such bond is to be held to ensure the site is rehabilitated to the satisfaction of Council's Manager Recreational Services. Failure to reinstate the site adequately will result in the bond being used to repair/restore damage that may occur as a result of the activities and that are not rehabilitated in an acceptable timeframe.**

[GENNS01]
9. **Any activities on the headland are to be restricted to grassed areas.**

[GENNS01]
10. **Existing access tracks are to be utilised with no activity within the vegetated dunal areas.**

[GENNS01]
11. **The applicant is to individually communicate with the Cabarita Residents Association and erect signage notifying the public of the site activities and any temporary access restrictions from 22 July 2006.**

[GENNS01]
12. **No hazardous substances are to be stored on Norries Headland. Any hazardous substances are to be stored in secure bunded areas away from waterways**

[GENNS01]
13. **Emergency response planning should incorporate potential hazardous substance spills.**

[GENNS01]
14. **The existing boardwalk is to be used where possible to transport equipment up to Norries Headland and personnel are to use this route to access Norries Headland rather than the western face of the headland. It is understood the boardwalk will be unavailable for use when it is covered. When it is available, it is to be used in preference to travel across grassland areas of the headland;**

[GENNS01]
15. **All material is to be secured at the site so as not to cause wind blown rubbish or materials leaving the area**

[GENNS01]
16. **Operation of the helicopter is required to comply with normal air traffic control requirements and CASA regulations at all times.**

[GENNS01]
17. **Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:**

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

- [PCW0255]*
18. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

19. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

20. Separate hand washing facilities must be provided with warm water and located in a position where it can be easily accessed by food handlers and be of a size that allows easy and effective hand washing to the satisfaction of the General Manager or his delegate.

[DUR1545]

21. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

22. Hazardous or industrial waste must be stored and disposed of in a manner to minimise its impact on the environment including appropriate segregation for storage and separate disposal a waste transporter licensed by the EPA.

[DUR2215]

23. The use to be conducted so as not to cause disruption to the amenity of the locality, particularly by way of the emission of noise, dust, fumes or the like. [USE0125]
24. All activities associated with the occupancy of the structure are to comply with the Protection of the Environment Operations Act, 1997. [USE0135]
25. Hours of operation of the helicopter and pyrotechnics are restricted to the following hours: -
- * 6am to 6pm - Mondays to Fridays (only) [USE0185]
26. All external artificial lighting shall be shielded where required to the satisfaction of Councils General Manager or his delegate to ensure that the spill of light or glare from such lighting does not create a nuisance to any adjoining or neighbouring premises. [USE0205]
27. All wastes shall be collected, stored and disposed to the satisfaction of the General Manager or his delegate. [USE0875]
28. All hazardous and/or dangerous goods shall be stored in accordance with requirements of WorkCover NSW. [USE1035]
29. The erection of any structures to comply with NSW WorkCover requirements and be carried out by NSW WorkCover licensed personal. [GENNS01]
30. Provision shall be made for adequate crowd control and security measures for the venue. Security shall be provided before, during and after the event and be effective in controlling public access and ensuring public safety. [GENNS01]
31. Any use of fireworks shall comply with the requirements of NSW WorkCover and relevant permits shall be obtained. [GENNS01]
32. Adequate provision shall be made for emergency medical and first aid services. [GENNS01]
33. Vegetation shall not be lopped, damaged or removed. [GENNS01]
34. The entire site shall be left in a clean and safe condition at the completion of the activity. All wastes shall be collected on site and disposed to an approved waste facility. [GENNS01]
-

35. An adequate number of temporary toilet facilities shall be provided to the satisfaction of the DECS. Toilets shall be maintained in a clean and healthy state at all times.
[GENNS01]
36. All food handling, storage and preparation shall comply with the Food Act, 2003 and the North Coast Regional Code For Sale of Food At Markets & Temporary Events. Food preparation areas shall be maintained in a clean and healthy state at all times.
[GENNS01]
37. Food preparation and storage areas shall be provided with an adequate and clean supply of potable water to the satisfaction of the DECS.
[GENNS01]
38. Not less than 7 days prior to any event Council shall be supplied in writing with the names and contact details of the persons responsible for event organisation.
[GENNS01]
39. All approaches and departures by the helicopter shall be over water and at no time shall the helicopter fly over any public gatherings or dwellings. The helicopter shall be operated so as to minimise potential disturbances to local residents.
[GENNS01]
40. The number of vehicles which access the beach shall be limited to five. All drivers shall hold relevant NSW Drivers Licenses. Vehicle access shall be generally restricted to the immediate filming areas.
[GENNS01]

REPORT:

Applicant: Condemned Productions Australia Pty Ltd
Owner: Tweed Shire Council and Department of Lands
Location: Lot 7033 DP 755701, Lot 7009 & Lot 7011 DP 1055324 Tweed Coast Road & Pandanus Parade, Cabarita Beach
Zoning: 6(a) Open Space & Uncoloured
Cost: \$50,000

BACKGROUND:

The filming proposal includes the temporary use of various parts of the site including part of the car parking area, sections of the beach located to the south of Norries Headland, the grassed reserve area in proximity to the amenities block, and on the headland itself.

The temporary development will require one day to occupy and prepare the site, two filming days, a day to remove equipment and one contingency day to allow filming from the second production unit (which is a reduced crew to obtain any missed footage).

A "Unit Production Area" will be established on the level area adjoining the amenities block. This will involve the erection of two 20m x 10m marquees with portable toilets provided for the crew.

The areas to be occupied other than the "Unit Production Area" will vary depending on the actual filming on the day. During filming the applicant intends to control public access to maintain public safety with the use of the helicopter.

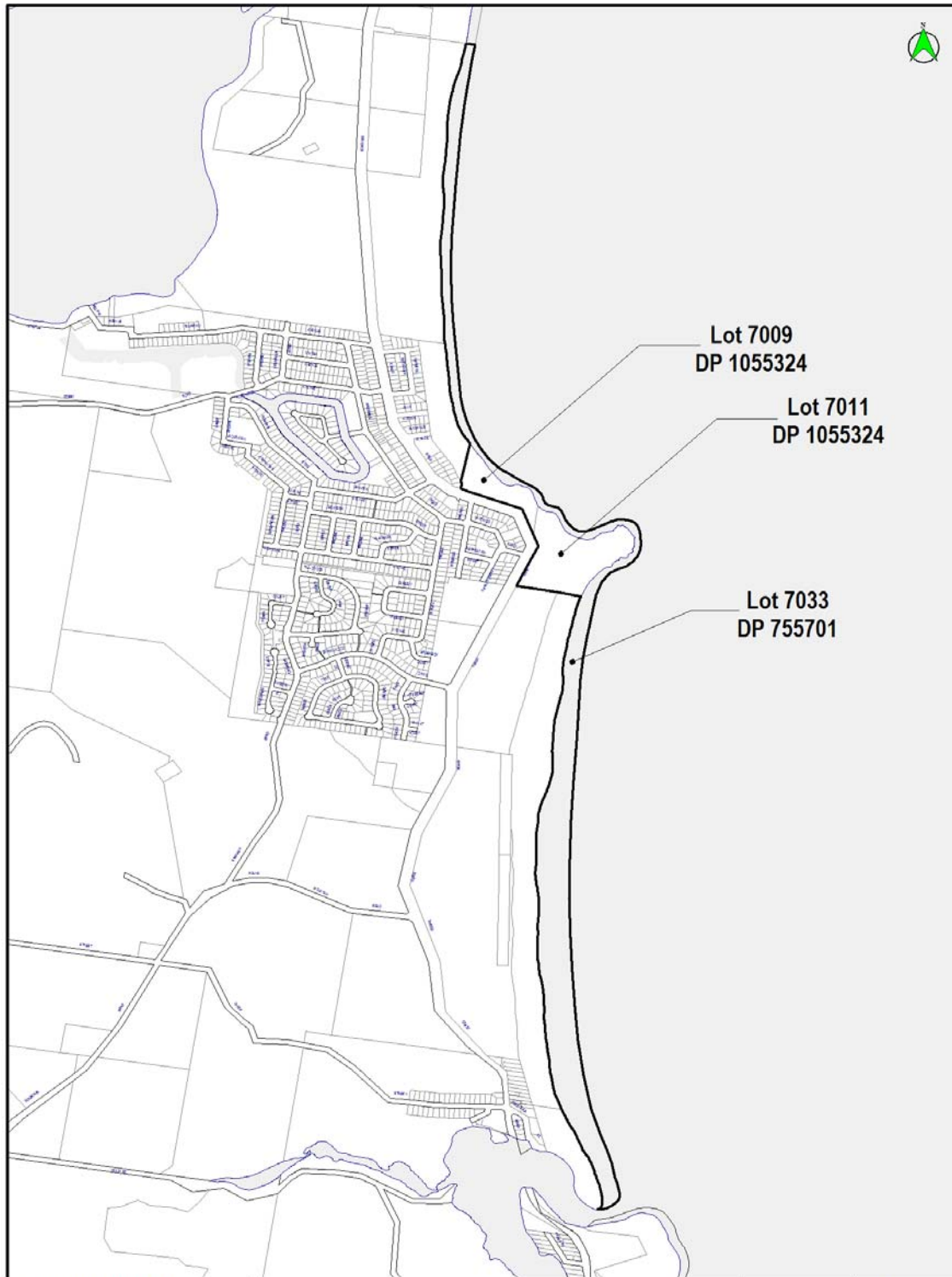
The production will involve approximately 80 crew, 3 cast, 8 trucks, 7 buses, 3 vans and 4 four wheel drive vehicles to be established on site. Unit call times will commence at 4.00am with filming finishing by 6.30pm. The helicopter will not be on site prior to 6.00am and will leave by 6.00pm.

Other work required to prepare the site for filming includes covering of the walkway on the headland, the temporary removal of signage and the temporary removal of approximately 6m of fencing, and installation of vehicle access at the end of the existing vehicular beach access track to facilitate access to the beach. One picture vehicle and four quad bikes or four-wheel drive vehicles will be required to access the beach.

The applicant has obtained owners consent from the Department of Lands and Tweed Shire Council as required.

In addition the applicant is aware of the need for a license from the Department of Lands in accordance with the provisions of the Local Government Act.

SITE DIAGRAM:



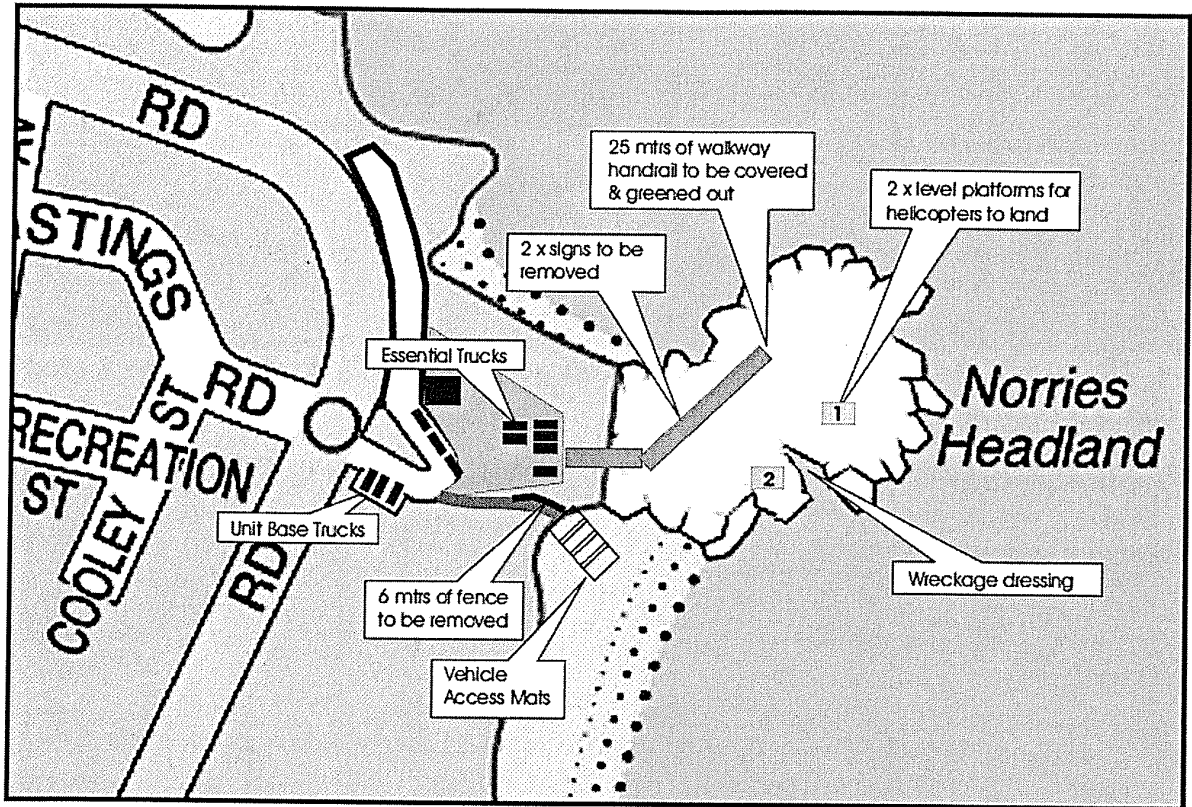
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 Fax: (02) 6670 2483

Tweed Shire Council
 Lot 7033 DP755701, Lot 7009 & 7011 DP1055324,
 Tweed Coast Road & Pandanus Parade, Cabarita Beach
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 27/June/2006



STRATEGIC PLANNING UNIT
Site Plan
 Sheet: 1 of 1

SITE LAYOUT PLAN



Proposed Site Layout Plan For Temporary Filming On Norries Head, Cabarita Beach

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The land to which this application relates is mainly zoned 6(a) Public Open Space and partly "uncoloured land" under the provisions of this Plan. The objectives of the 6(a) Zone are stated inter alia:

"Primary objective

- *to identify existing public land, and land that is proposed to be acquired for public ownership, to satisfy the open space and recreational needs of local residents and visitors to the area of Tweed and to enable its development to encourage or assist their recreational use and enjoyment of the land.*

Secondary objective

- *to allow other development that is compatible with the recreational use of the land."*

For the purpose of land use definitions in the Tweed Local Environmental Plan 2000, development for the purposes of temporary film production (incorporating all ancillary activities) is not specifically defined and is therefore an innominate use.

In accordance with Clause 11 of the Local Environmental Plan 2000 the innominate use is prohibited in the 6(a) zone. However Clause 12 of Tweed Local Environmental Plan 2000 relates to Temporary Development of Land and states inter alia:

"(1 Objective

- *to enable the temporary development of land for a purpose that would otherwise be prohibited in the zone.*
- (2) *Consent may be granted to development (other than designated development) for any purpose that is elsewhere prohibited by a provision of this plan for a maximum period of 14 days, whether consecutive or not, in any one year. "*

Therefore the proposed temporary filming (total 5 days) is permissible within the 6(a) Zone pursuant to Clause 12 of Tweed Local Environmental Plan 2000.

In addition the proposal is considered to be consistent with the zone objective in that the use of the public land for up to 5 days in a non-peak period (mid week – mid-winter – non school holidays) does not adversely affect the normal recreational use of the land.

Clause 13 of the Tweed LEP 2000 requires development consent for any proposed development on uncoloured land. The proposed temporary development is permissible within the adjacent zones by virtue of Clause 12 of the LEP and is considered consistent with the adjoining zone objectives.

Clause 15 requires adequate essential services for all developments. In this regard the production unit will provide adequate electricity (generators) and toilet facilities (portable toilets). These services are considered adequate for the temporary nature of the development.

Clause 17 requires Council to consider the potential social impact associated with the development. In this regard the temporary nature of the development and the imposition of the recommended conditions of consent are sufficient to ensure local residents retain a reasonable level of amenity during the five days.

Clause 31 relates to developments adjoining water bodies and focuses on protecting and enhancing quality of the natural environment, and to provide adequate public access to waterways. The proposed temporary development will not contravene the objectives of this Clause. Reasonable access will be maintained and no negative impact to the natural environment is envisaged as a result of the temporary use of the headland area.

Clause 39A relates to the minimisation of bushfire risk to built assets and people. Whilst the subject site is located within a nominated bushfire prone area the proposed temporary use of the site to facilitate the production of a feature film will not create any threat in regards to bushfire. All emergency services will need to be notified in accordance with Tweed Shire Council Policies.

North Coast Regional Environmental Plan 1988

The details of this Clause are stated as follows and addressed in the paragraphs below:

“In determining an application for consent to carryout development on land to which the Coastal Policy applies, the Council shall take into account –

The NSW Coastal Government Policy; The Coastline Management Manual; and The North Coast Design Guidelines.

- *The Council shall not consent to the carrying out of development which would impede public access to the foreshore area;*

- *The Council shall not consent to the carrying out of development on urban land at Tweed Heads, Kingscliff, Byron Bay, Ballina, Coffs Harbour or Port Macquarie, if carrying out the development would result in beaches and adjacent open space being overshadowed before 3 pm mid-winter (standard time) or 6.30 pm mid-summer (daylight saving time); or Elsewhere in the region, if carrying out the development would result in beaches or waterfront open space being overshadowed before 4 pm mid-winter (standard time) or 7 pm mid-summer (daylight saving time)."*

NSW Coastal Policy, 1997

The maps accompanying the Coastal Policy indicate that the site falls within the area to which the Policy applies.

Table 2 of the Coastal Policy contains a number of strategic actions relevant to development control. Those specifically relevant to this proposal are addresses below:

- Stormwater Quality: The temporary development does not involve the erection of any permanent structures and involves only five days in total. In this instance it is considered that a Stormwater Management Plan is not required.
- Coastal Hazards: The temporary development is suitable for the location having regard to the hazards that apply to this site.

In summary, approval of the application would not be inconsistent with the Coastal Policy.

Coastline Management Manual, 1990

In accordance with the requirements of this Manual, Tweed Shire Council has prepared a Coastline Hazard Definition Study, but the preparation of a Coastline Management Plan is yet to be completed. Given the temporary nature of the proposed use it is considered that the filming would not be inconsistent with those Plans.

North Coast Design Guidelines

The proposed filming does not involve the erection of any permanent structures and therefore the North Coast Design Guidelines are not particularly relevant to this application.

Overshadowing

The proposed temporary development does not involve the erection of any permanent structures and therefore this Clause is not particularly relevant to this application.

State Environmental Planning Policies

State Environmental Planning Policy No. 71 – Coastal Protection

The site falls within the area to which the Policy applies. The application is generally consistent with the provisions of State Environmental Planning Policy No. 71 specifically Clause 8 which requires an assessment of matters for consideration. Subject to the recommended conditions of consent the application is considered to adequately satisfy this SEPP.

State Environmental Planning Policy – Major Projects 2005

The Major Projects SEPP was gazetted on 25 May 2005. This State Environmental Planning Policy nominates a range of developments for which the Minister is the consent authority depending on the class of development (type of use and value) and certain developments on specified sites.

Clause 6 of the State Environmental Planning Policy identifies State Significant Development as development described in Schedule 1 or 2.

Schedule 2, Subsection 1 relates to Coastal Areas and includes buildings or structures greater than 13m in height.

The proposed temporary filming on the subject site is not caught by any other elements described in Schedule 1 or 2. In this case the Tweed Shire Council is the Consent Authority for this development application.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

Draft Tweed Coast Reserve Plan of Management

The Tweed Coast Reserve Plan of Management was prepared by the former Department of Land and Water Conservation in 1997, and remains in draft form. Under that Draft Plan the site is located within Precinct 5 – Cabarita Beach/ Norries Head.

Figure 14 of that Plan indicates that the site is located within the Recreation, Environmental Protection Management Unit and partially within the Foreshore Management Unit.

The objectives of these management units, as stated in Section 5 of the Plan, are directed towards environmentally responsible uses which may be considered on a case by case basis. Although not specifically mentioned it is considered that the use of the subject site for a temporary filming location is consistent with the objectives of each of the management areas.

Accordingly it is considered that the proposed development is not inconsistent with the draft version of the Tweed Coast Reserve Plan of Management.

(a) (iii) Development Control Plans (DCP's)

Development Control Plan No. 2 – Car Parking Code

Development Control Plan No. 2 does not specify a rate of car parking spaces to be provided for temporary developments such as the proposed filming.

However based on the estimates provided by the applicant approximately 40 car parking spaces will be required for the crew.

In this regard it is submitted that adequate car parking is available within the public car park located adjacent to the filming location. While the proposed filming may consume a significant number of those spaces, it is considered that the public demand during that non-peak period will not be high and that the greater benefit from this development will override any minor temporary inconvenience to those who would normally visit this car park area.

Furthermore, Council's Traffic & Transport Engineer has reviewed the proposal and recommended conditions of consent to ensure all signage is reinstated and general public access is available at all times to the amenities building and car parking area.

Tweed Development Control Plan No. 51 – Tweed Coast Strategy

The Tweed Coast Strategy contains a number of principles and planning objectives relating to development within the coastal villages.

While no specific planning controls apply to the proposed temporary filming use, the proposal is considered to be in general accordance with the key policy principles identified in the Plan, in particular 3.3.4 Public Open Space and 3.3.7 Natural Environment.

In this regard the proposed temporary filming will allow public access to be maintained where possible to the foreshore, except for limited periods where exclusion is required to maintain public safety. In addition the proposed filming is to showcase the natural features of the locality with a priority placed on minimising any disturbance to the site.

(a) (iv) Any Matters Prescribed by the Regulations

The proposed temporary development is considered satisfactory subject to the recommended conditions of consent.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

Flora & Fauna

Upon initial review of the application Council staff identified that the subject site accommodates an Endangered Ecological Community – *Themeda Grasslands*. Council requested additional information from the applicant to address flora and fauna having specific regard to Part 5A of the Environmental Planning & Assessment Act 1979.

Council's Environmental Scientist then reviewed the submitted Flora & Fauna Assessment and provided the following comments:

"I have reviewed additional information provided to accompany the Development Application for proposed temporary filming at Norries Head, Cabarita Beach, namely Targeted Assessment of Significance (Aspect North 13 June 2006).

The methodology for assessment of the proposed development on Themeda Grassland, threatened flora on Norries Headland and threatened fauna appears sufficient given the short-term and temporary nature of the proposed development.

A single Significance Assessment (7 part test) has been conducted for the Endangered Ecological Community - Themeda grasslands, and threatened shorebirds Osprey, Sooty and Pied Oystercatchers. Assessment of the potential impact of the proposed development on threatened species and Themeda grasslands appear sufficient and conclusion that the development will not significantly impact threatened species, populations or ecological communities justified, provided recommended mitigation measures are employed.

Section 6.2 provides amelioration measures to minimise potential impacts of the development. All mitigation measures are relevant in the reduction of potential impacts. However, several further mitigation measures (outlined below) should be additional to conditions of consent provided by Aspect North in Section 6.2 of Targeted Assessment of Significance:

- No hazardous substances are to be stored on Norries headland. Any hazardous substances are to be stored in secure bunded areas away from waterways;*
- Emergency response planning should incorporate potential hazardous substance spills;*
- The existing boardwalk is to be used where possible to transport equipment up to Norries Headland and personnel are to use this route to access Norries Headland rather than the western face of*

the headland. It is understood the boardwalk will be unavailable for use when it is covered. When it is available, it is to be used in preference to travel across grassland areas of the headland;

- All material is to be secured at the site so as not to cause wind blown rubbish or materials leaving the area;*
- Should the development cause significant damage to the Themeda Grassland community at Norries Headland, the proponent will be responsible for restoration of areas affected, following completion of the development. Therefore a monetary bond should be secured from the proponent."*

The above recommendations have been incorporated as conditions of consent and therefore the application is considered to have adequately addressed Flora and Fauna.

Noise

It is likely that some localised disturbances or inconveniences could be anticipated from the proposal.

Noise will be associated with the use of the helicopter and pyrotechnics. Such activities will be restricted to 6.00am to 6.00pm with all approaches and departures for the helicopter to be over the water and at no time will the helicopter fly over any public gatherings or dwellings.

However due to the very brief nature of the activity it is anticipated that the general community would accept such minor disturbances.

(c) Suitability of the site for the development

Subject to compliance with the recommended conditions of consent the subject site is considered suitable for the proposed temporary use for filming.

(d) Any submissions made in accordance with the Act or Regulations

The application was advertised and notified to adjoining land owners, who were given fourteen days to make a submission on the proposal. In addition to this Council independently contacted the Cabarita Ratepayers Association, Cabarita Surf Life Saving Club, and Gold Coast Airport Limited. During this period Council received four submissions. Two letters were received in support of the proposal and the process of assessment being undertaken for this event with a further two submissions in objection to the proposal on the following grounds;

- We should not close off public land without a benefit to the Shire;
- The estimated cost for the film (\$50,000) is unrealistic and it should be more like \$200,000 per day.

In specific regard to use of public land for a private benefit the application has been reviewed by Council's Manager Recreation Services Unit who provided no objection subject to the imposition of the following conditions:

1. *The site is to be inspected after the activities and any damage to the parks, headland or infrastructure is to be repaired to the satisfaction of the Manager Recreation Services*
2. *An appropriate bond (\$10,000) is lodged to allow for any repair/restoration works that may occur as a result of the activities and not undertaken in an acceptable timeframe.*
3. *Any activities on the headland are to be restricted to grassed areas*
4. *Existing access tracks are to be utilised with no activity within the vegetated dunal areas.*
5. *In addition to the statutory notification of the Development Application, individual communication with the Residents Association and signage notifying of the limited access be placed at the headland access tracks from 22 July 2006.*

One of the queries from the Cabarita Residents Association related to whether Council could require the applicant to make a donation to a local facility for use of public land. In this regard Council explained to the Association that Council cannot impose such a condition on the applicant and any previous donations by other companies have been a voluntary act of good will to the community.

In this instance use of public land for a private purpose such as filming will result in a public benefit through exposure and potential tourism benefits.

In regard to the applicants estimated cost for filming there is no way for Council to determine the accuracy of the submitted estimate of \$50,000 and therefore the DA fees was determined on this estimate.

(e) Public interest

The application is not considered contrary to the general public interest. The temporary nature of the filming over a five day no peak period is considered reasonable subject to compliance with the recommended conditions of consent.

OPTIONS:

1. Approve the application subject to the recommended conditions of consent
2. Refuse the application

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should the application be refused the applicant would have a right to Appeal to the NSW Land & Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The subject land is considered to be suitable for the proposed development. The environmental attributes of the site have made it desirable as a location for the proposed filming. These attributes are valued by the applicant and as such will be protected through environmental management measures within a plan for the site.

The remediation of the land following completion of the development will be of benefit. It is considered that the addition of activity in the Norries Headland area will be able to be undertaken in a manner to limit nuisance to other residences.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P7 [PD-PC] MP04/0001 & DA05/0308 for a Staged Residential Subdivision (3 Stages) being 89 Single Dwelling Lots, 7 Duplex Blocks, 1 Drainage Reserve, 1 Residue Lot & 2 Public Reserves at Lot 13 DP793985; Lot B DP368706; Lot 1 DP392245 Barnby St Murwillumbah

ORIGIN:

Development Assessment

FILE NO: MP04/0001 Pt2 & DA05/0308 Pt3

SUMMARY OF REPORT:

At the Council Meeting of 13 June 2006 it was resolved as follows: -

***“RECOMMENDED** that this item be deferred for further clarification and information to be provided.”*

In this regard the following additional information is provided to clarify the amount of cane land that will be lost should the application be approved.

The subject site comprises three separate allotments, which create a total land area of approximately 24ha. The subject land has the following zonings:

- 2(a) Low Density residential – approximately 0.18ha
- 2(c) Urban Expansion – approximately 9.876ha; and
- 1(b2) Agricultural Protection – approximately 14.05 ha (140,445m²)

The following is a breakdown of how the proposed development utilises the 140,450m² of agricultural zoned land;

Uses Within Agricultural Zone	Area of Uses Within Agricultural Zone
Road to Joshua Street	9318m ²
Road 2	4215m ²
Riparian Buffer	11,588m ²
Drainage Reserve	10,816m ²
Public Park	5067m ²
Sewer Pump Station	555m ²
Vacant Residue (Unviable Cane Land)	58,942m ²
Vacant Residue (Remaining Viable Cane Land)	39,944m ²

The location of the proposed new road linking to Joshua Street was specifically designed to trace the toe of the batter to ensure onsite earthworks are kept to their minimum and thus dividing the remaining vacant land into the two sections as described below.

Section 1 on the western side of the road comprises an area of 39,944m² (28.4%) and will remain as viable cane land.

Section 2 on the eastern side of the new road contains approximately 58,942m² (or 41.9%) of agriculturally zoned land that is not and has never been suitable cane land, due to the steepness of the land.

Therefore, the only area of viable cane land lost as a result of this development is 41,559m², which equates to 4.16ha (29.4%). This area is lost to accommodate a riparian buffer, a drainage reserve, open space, a sewer pump station and an access road.

The site is physically constrained in geometric shape, topography, proximity to the Rous River, and by the existing road network. Therefore based on these constraints it is considered reasonable to allow the applicant to utilise part of the adjoining agricultural land (29.4%) to assist accommodate the proposed residential subdivision.

Since the application was originally reported to the Council Meeting of 13 June 2006 Council has received a further submission of objection on behalf of the NSW Sugar Industry. The objection states:

“The NSW Sugar Industry’s position is to continue to strongly oppose the development. Although the residential lots originally planned for the agricultural zoned land have been removed there is still significant infrastructure on these lands that leads to a permanent loss of agricultural land directly (landfill and road infrastructure) or through extensive fragmentation of the land in question (road infrastructure, water quality pond, sewer pump station).

This loss of land results in direct and cumulative adverse impacts on the economic viability and operation of the sugar industry in the Tweed & Northern Rivers Region.”

This objection is an extension to the original objections lodged on behalf of the NSW Sugar Industry.

Use of the agriculturally zoned land for ancillary purposes is considered permissible in accordance with the Tweed LEP 2000. The existing agriculturally zoned land is already fragmented from other agricultural land and is partially unsuitable for cane growing due to the sites topography.

Therefore, having considered the issues raised in all objection letters the application is considered to warrant conditional approval.

Please note that at a recent call over in regards to the Appeal lodged in the NSW Land & Environment Court the Court made the following orders:

- That the applicant by 14 July file any further evidence;
- That the respondent (Council) file any evidence in reply by 4 August; and

- That the matter be set down for hearing at a local Court for two days commencing 21 August 2006 on site at 10.30am.

RECOMMENDATION:

That: -

1. Council generally supports MP04/0001 subject to the amendments as detailed within DA05/0308.
2. Council delegates authority to the Director of Planning & Development to approve Development Application DA05/0308 subject to the applicant withdrawing Appeal Number 11048 in the NSW Land & Environment Court and subject to the following conditions of consent being imposed on any consent: -

"DEFERRED COMMENCEMENT"

This consent shall not operate until the applicant satisfies the consent authority by producing satisfactory evidence relating to the matters set out in Schedule "A". Such evidence is to be provided within six months of the date of notification.

Upon the consent authority being satisfied as to compliance with the matters set out in Schedule "A". The consent shall become operative and take effect from the date of notification under Section 67 of the Environmental Planning and Assessment Regulations subject to the conditions set out in Schedule "B".

SCHEDULE "A"

Conditions imposed pursuant to Section 80(3) of the Environmental Planning and Assessment Act, 1979 and Section 67 of the Regulations as amended.

- A. The applicant must obtain adjoining owner's consent over Lot 2 DP 534521 (Council's Treatment Works) for;
- B. Creation of a drainage easement over the existing "cane drain", to provide a legal point of discharge for the development.

SCHEDULE B

NOTE: THIS PART OF THE CONSENT WILL NOT BECOME OPERABLE UNTIL COUNCIL ADVISES THAT THE MATTERS CONTAINED IN SCHEDULE A ARE SATISFIED.

GENERAL

1. The development shall be completed in accordance with the Statement of Environmental Effects and the following Plan Nos: -
 - Drawing Number 7214/6/1 DA Figure 3D Revision E prepared by Cardno MBK and dated May 2006;

- Drawing Number 7214/6/1 DA Figure 4 Revision E prepared by Cardno MBK and dated May 2006;
- Drawing Number 7214/06/1 DA Figure 10 Revision B prepared by Cardno MBK and dated August 2004;
- Drawing Number 7214/06 DA Figure 13 Revision B prepared by Cardno MBK and dated January 2005;
- Drawing Number 7214/06 DA Figure 14 Revision A prepared by Cardno MBK and dated November 2003;
- Drawing Number 7214/06/01 DA Figure 17 Revision B prepared by Cardno MBK and dated January 2005;
- Drawing Number 7214/06 DA Figure 18 Revision B prepared by Cardno MBK and dated August 2004;

except where varied by the conditions of this consent.

[GEN0005]

2. The development shall be completed in accordance with the: -

- Acoustic Report prepared by Savery & Assoc P/L, No. S514, dated 24 February 2005. Compliance shall be in accordance with the Section 6.0 Conclusions & recommendations to the satisfaction of the Director of Environment and Community Services.
- Acid Sulfate Soil Management Plan prepared by Gilbert & Sutherland dated October 2004;
- Flora and Fauna Assessment Plan prepared by James Warren & Associates dated March 2005.

[GEN0005]

3. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.

[GEN0045]

4. The subdivision is to be carried out in accordance with Development Control Plan No. 16 - Subdivisions Manual and Councils adopted Development Design and Construction Specifications, except as may be varied by the conditions of this consent or plans approved by this consent.

[GEN0125]

5. Approval is given subject to the location of, protection of, and/or any necessary modifications to any existing public utilities situated within or adjacent to the subject property.

[GEN0135]

6. Prior to commencement of work on any stage of this development pursuant to this consent, a Construction Certificate shall be obtained for all civil works within the site, as required by the relevant stage of the development.

[GENNS01]

7. Prior to commencement of any site work the applicant is to obtain a permit under Part 3A of the Rivers & Foreshores Improvement Act 1948.

[GENNS01]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

8. Prior to the issue of a Construction Certificate, a cash bond or bank guarantee (unlimited in time) shall be lodged with Council for an amount based on 1% of the value of the works (minimum \$1,000). The bond may be called up at any time and the funds used to rectify any non-compliance with the conditions of this consent which are not being addressed to the satisfaction of the General Manager or his delegate.

The bond will be refunded, if not expended, when the final Subdivision/Occupation Certificate is issued.

[PCC0275]

9. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for **SUBDIVISION WORKS OR BUILDING WORKS** shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

10. Where earthworks result in the creation of embankments and/or cuttings greater than 1m high and/or slopes within allotments 17° or steeper, such slopes shall be densely planted in accordance with a detailed landscaping plan. Such plan to accompany the Construction Certificate application.

Such plans shall generally incorporate the following and preferably be prepared by a landscape architect:

- (a) Contours and terraces where the height exceeds 1m.
- (b) Cover with topsoil and large rocks/dry stone walls in terraces as necessary.

- (c) **Densely plant with sub-tropical (rainforest) native and exotic species to suit the aspect/micro climate. Emphasis to be on trees and ground covers which require minimal maintenance. Undergrowth should be weed suppressant.**
- (d) **Mulch heavily (minimum 300mm thick) preferably with unwanted growth cleared from the estate and chipped. All unwanted vegetation is to be chipped and retained on the subdivision.**

[PCC0455]

- 11. **All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.**

[PCC0465]

- 12. **Submission for approval by the Principal Certifying Authority design detail including surcharge loads for any retaining walls to be erected on the site in accordance with AS 4678, DCP47 and Councils adopted Design and Construction Specifications. Design detail is to be supported by certification of adequacy of design from a suitably qualified structural engineer.**

Please note timber retaining walls are not permitted.

[PCC0475]

- 13. **All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties. If filling is required, a plan of proposed drainage is to be submitted and approved by the PCA prior to the issue of a construction certificate. Drainage must be installed and operational prior to commencement of any building work.**

All fill and cut batters shall be maintained wholly within the subject land. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0485]

- 14. **Notwithstanding any other condition of this consent separate construction certificates for bulk earthworks and civil works may be issued and the carrying out of bulk earthworks may be commenced prior to the issue of a Construction Certificate for civil works where it can be demonstrated all works are compatible.**

[PCC0495]

15. A traffic control plan in accordance with AS1742 and RTA publication "Traffic Control at Work Sites" Version 2 shall be prepared by an RTA accredited person shall be submitted to the Principal Certifying Authority prior to issue of the Construction Certificate. Safe public access shall be provided at all times.

[PCC0865]

16. Application shall be made to Tweed Shire Council under Section 138 of the Roads Act 1993 for works pursuant to this consent located within the road reserve. Application shall include engineering plans and specifications for the following required works: -

- (a) All water main infrastructure works within existing road reserves.
- (b) The section of William Street between Barnby Street and Dorothy Street is to be resurfaced with a skid/slip resistant asphaltic concrete surface. Details of the surface treatment is to be submitted to and approved by Council's Director Engineering and Operations prior to construction.
- (c) The intersection of Byangum Road and William Street is to be upgraded to provide a westbound right turn lane into William Street. The proposed works shall be provided, in accordance with Austroads Part 5: Intersections but will only require alterations to linemarking & new linemarking to create the right turn lane. Alternatively, Council will accept a cash payment covering the value of the works & Council will undertake such linemarking works.

The above mentioned engineering plan submission must include copies of compliance certificates relied upon and details relevant to but not limited to the following: -

- (a) Road works/furnishings
- (b) Stormwater drainage
- (c) Water and sewerage works
- (d) Sediment and erosion control plans
- (e) Location of all services/conduits
- (f) Traffic control plan

[PCC0895]

17. Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.

- copies of compliance certificates relied upon
- four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks/pavement design/furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Country Energy and Telstra)

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

18. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils Development Design Specification D7 - Stormwater Quality.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.
 - (d) Specific Requirements to be detailed within the Construction certificate application include:
 - (i) Shake down area along the haul route immediately before the intersection with the road reserve.

[PCC1105]

19. A construction certificate application for works that involve any of the following:-

- connection of a private stormwater drain to a public stormwater drain
- installation of stormwater quality control devices
- erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC1145]

20. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".

[PCC1155]

21. Where water is to be drawn from Councils reticulated system, the proponent shall: -

- (a) Make application for the hire of a Tweed Shire Council metered standpipe including Councils nomination of point of extraction.
- (b) Where a current standpipe approval has been issued application must be made for Councils nomination of a point of extraction specific to the development.
- (c) Payment of relevant fees in accordance with Councils adopted fees and charges.

[PCC1205]

22. Construction of the connection road linking Joshua Street to Road 2, as part of the Stage 1 works. The proposal to construct this link to a rural road standard in accordance with the requirements of DCP16, and to have this section of road covered by a Right of Way, is acceptable as a temporary measure (until further development and/or a rezoning occurs over the residual portion of the site), however this is a permanent link and is required for immediate and permanent use by the public. This section of road must be designed to cater use as a bus route, make provision for a cycleway, and must also provide traffic control devices to ensure traffic speeds reflect the 50 kph speed limit.

[PCCNS01]

23. The Construction Certificate for Stage 3 (Phase 2) will not be issued until satisfactory arrangements have been made with Council regarding construction of the new road connection between Francis Street and Road 2, generally as shown on Plan 7214/6/1-DA FIG 3.

This condition will be deemed to be satisfied upon payment by the applicant to Council of 50% of the construction cost of the above-mentioned road connection. Construction costs shall be fully itemised and based on engineering design plans for a two lane rural road standard of construction. The road shall be designed for use as a bus route, with provisions for a cycleway and traffic control devices to ensure traffic speeds reflect the 50 kph speed limit

[PCCNS01]

24. The road connection to Joshua Street is to be relocated to avoid any encroachment on adjoining Lot 22 DP 1080322.

[PCCNS01]

25. A bus route through the site shall be established as part of the Stage 1 works. To facilitate this, the following matters must be satisfactorily addressed:

- (a) Road 1 is to have the carriageway widened to 9.0m, from Road 2 to Road 4.
- (b) Road 4 is to have the carriageway widened to 9.0m.
- (c) The intersection of Road 4 with the northern section of Road 1 is to be prioritised, by the provision of an arced alignment. The southern section of Road 1 shall be arced around to intersect perpendicularly with the mid-point of the prioritised arc. Road 4 and Road 1 (chainage 00 to 270) are to be merged to form one continuous longitudinal section. Some pavement widening may be required around this bend.
- (d) In conjunction with the preceding requirement, an access driveway location for Lot 103, compliant with AS2890, will need to be demonstrated.
- (e) The engineering plans will need to demonstrate that buses can negotiate all relevant intersections within the estate.

[PCCNS01]

26. Prior to the issue of a Construction Certificate for each stage of the development, it is to be demonstrated that all lots have compliant driveway locations in accordance with AS2890. [PCCNS01]
27. The carriageway for Road 4 is to be centrally located within the road reserve unless an alternative alignment is accepted by the General Manager or his delegate prior to the issue of a construction certificate. [PCCNS01]
28. Road 2 shall be fully constructed to urban road standards, and dedicated accordingly, up to and including the intersection with Road 3. [PCCNS01]
29. The road frontages of Lots 146 to 149 (inclusive) shall be fully constructed to urban road standards and dedicated accordingly, in conjunction with the creation of those lots. [PCCNS01]
30. The section of Road 3 shown as Right-of-Way shall be fully constructed to urban road standards and dedicated accordingly, up to the intersection with Road 2, as part of the Stage 2 works. [PCCNS01]
31. The Stage 3 construction of Road 5 will require the provision of a temporary sealed turning bulb area, covered by a Right-of-Carriageway. [PCCNS01]
32. All roads and lots are to be filled to a minimum of RL 5.1m AHD [PCCNS01]
33. Lot 148 (public reserve) shall be filled to a minimum of RL 4.1m AHD. [PCCNS01]
34. The removal and subsequent reconstruction of access driveways to house numbers 45 and 49 Barnby Street as follows: -
- (a) Provision of a new concrete driveway to Number 45 generally as per Plan 7214/06.
 - (b) Provision of a new concrete driveway to Number 49 to come off Road 4, in the vicinity of chainage 40.
 - (c) Access to both above-mentioned dwellings shall be maintained at all times, even during the construction phase. [PCCNS01]

35. The geotechnical report by Morrison Geotechnical P/L raises concerns regarding the construction method and stability of deep filling on the site. Three of the four options nominated, utilise pre-loading - which has inherent time lags (6 to 18 months). Filling without pre-loading is acceptable, but with settlement predicted. This requires over-filling. Suitable fill levels for flood marginal lots, as well as allowances in road and stormwater construction and provision of services, must be specifically addressed in any Construction Certificate application. [PCCNS01]
36. All run-off from adjoining properties is to be captured and diverted into the proposed internal stormwater network. This will require investigation of what is contained within and discharged to the existing 3.05m wide drainage easement along the eastern boundary of the site. [PCCNS01]
37. Any temporary sediment ponds required during the construction phase of the development shall be located clear of the proposed Drainage Reserve. [PCCNS01]
38. Prior to the issue of a Construction Certificate for Stage 1, the Bushfire Management Plan prepared by Bushfiresafe Services dated 2 June 2005 shall be revised to comply with the General Terms of Approval imposed by Rural Fire Services. The design and construction of all civil, landscaping and embellishment works shall be completed to comply with the revised plan. [PCCNS01]
39. The fence proposed for relocation to the property boundary in Frangella Park is to be a timber paling fence consistent with Council's Building Services requirements. An alternative proposal may be submitted for consideration by the Manager, Recreation Services. [PCCNS01]
40. The pathway providing access to Frangella Park from Road No.1 is to be a minimum of 4.0m wide, and shall include a concrete footpath with turf either side of the path. The slope for the turfed areas must be less than 20%. Design plans for this pathway must be approved by the Manager, Recreation Services. [PCCNS01]
41. A detailed landscape plan for the public reserve (park) proposed for northwest of Road 2 must be prepared to the satisfaction of the Manager, Recreation Services. This landscape plan will consider integration of the park with the drainage reserve and riparian buffer immediately west of the reserve. The landscape plan should provide for embellishment consistent with DCP 16 (Subdivision Manual) table 4.33b1. [PCCNS01]

42. The developer shall embellish the public reserve (park) and drainage reserve according to the approved landscape plan. The reserve shall be filled and levelled with a suitably established grass cover. Further embellishment shall not occur until 30% of the allotments have been occupied. Alternatively, the developer may pay the appropriate financial contribution and Council will undertake the further embellishment works at the appropriate time. [PCCNS01]
43. Public reserve (riverbank)
- (a) Prior to issue of a Construction Certificate for Stage 1, a vegetation regeneration plan for the public reserve (riverbank) is to be prepared and submitted to Council for approval by the Manager, Recreation Services. The plan shall incorporate the amelioration measures of the Flora & Fauna Assessment Plan prepared by James Warren and Associates dated March 2005, and must allow for up to three years maintenance. The plan shall be implemented as part of Stage 1 works.
- (b) Access to the public reserve (riverbank) must be provided for maintenance and potential recreation use. [PCCNS01]
44. The Public Reserve and Drainage Reserve shall be dedicated as part of the Stage 1 works. [PCCNS01]
45. The Drainage Reserve/Water Quality Pond shall be constructed generally in accordance with Plan DA Figure 13 and the Stormwater Management Plan by Gilbert and Sutherland dated October 2004, and must comply with Council's Development Design Specification D7. Full design details shall be submitted with the construction certificate submission, and are to include;
- (a) A structure at the base of the pond to allow manipulation of water levels to enable control of macrophytic and insect populations, and to facilitate dredging.
- (b) The provision of "protection buffers" to stop the mobilisation of sediments within the pond, when inundated during a Q100 year flood event.
- (c) A 3m wide, all weather access and maintenance track is to be provided. [PCCNS01]
46. Existing ground levels at all boundaries of the subject site are to be preserved. [PCCNS01]

47. Prior to issue of a Construction Certificate for Stage 1 an Acid Sulfate Soils Management Plan shall be submitted and approved where any excavation works are to be undertaken within areas identified within Gilbert & Sutherland's Acid Sulfate Soil Assessment (Section 4 Gilbert & Sutherlands report dated October 2004. The Plan shall specify the construction work detail and appropriate treatment methodology including any dewatering requirements

[PCCNS02]

49. Prior to issue of a Construction Certificate the applicant is to provide evidence to Council that Lot 117 can achieve a 20m Inner Protection Area while still accommodating a dual occupancy. Failure to satisfy this condition will result in Lot 117 not being a nominated dual occupancy allotment.

[PCCNS02]

PRIOR TO COMMENCEMENT OF WORK

48. Prior to the commencement of work, the applicant shall submit to Council evidence that a Site-Specific Safety Management Plan and Safe Work Methods for the subject site have been prepared in accordance with either:-

- (a) Occupation Health and Safety and Rehabilitation Management Systems Guidelines, 3rd Edition, NSW Government, or
- (b) AS4804 Occupation Health and Safety Management Systems - General Guidelines on Principles Systems and Supporting Techniques.
- (c) WorkCover Regulations 2000

[PCWNS01]

49. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

50. Prior to commencement of work all actions or prerequisite works required at that stage, as required by other conditions or approved management plans or the like, shall be installed/operated in accordance with those conditions or plans.

[PCW0015]

51. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

52. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

53. Subdivision work in accordance with a development consent must not be commenced until:-

- (a) a construction certificate for the subdivision work has been issued in accordance with Councils adopted Development Design and Construction Specification C101 by:

- (i) the consent authority, or
(ii) an accredited certifier, and

- (b) the person having the benefit of the development consent:

- (i) has appointed a principal certifying authority,
(ii) has appointed a Subdivision Works Accredited Certifier in accordance with Development Control Plan No. 16, Appendix C, and
(iii) has notified the consent authority and the council (if the council is not the consent authority) of the appointment, and

- (c) the person having the benefit of the development consent has given at least 2 days' notice to the council of the person's intention to commence the subdivision work.

[PCW0815]

54. Prior to commencement of work, a sign detailing the project and containing the names and contact numbers of the Developer, Contractor and Subdivision Works Accredited Certifier shall be erected and maintained in a prominent position entry to the site in accordance with Councils adopted Development Design and Construction Specifications. The sign is to remain in place until the Subdivision Certificate is issued.

[PCW0825]

55. The proponent shall provide to the PCA copies of Public Risk Liability Insurance to a minimum value of \$10 Million for the period of commencement of works until the completion of the defects liability period.

[PCW0835]

56. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0985]

57. The proponent shall notify Councils Engineering & Operations Division of intention to commence drawing water in accordance with the requirements of the approval to draw water.

[PCW1045]

58. Where necessary, the applicant shall provide documentary evidence that a permit has been issued by the Department of Natural Resources under Part 3A of the Rivers and Foreshores Improvement Act 1948, for works within 40m of a natural watercourse

[PCWNS02]

DURING CONSTRUCTION

59. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.

[DUR0005]

60. Construction of rights of carriageway and/or individual battle-axe driveways as necessary, to a concrete/bitumen sealed standard in accordance with the provision of DCP16 - Subdivision Manual and Councils Development Design and Construction Specification.

[DUR0055]

61. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

62. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:

A. Short Term Period - 4 weeks.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.

B. Long term period - the duration.

L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.

[DUR0215]

63. Any pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring residential areas. Such location is to be to the satisfaction of the General Manager or his delegate.

[DUR0225]

64. All imported fill material shall be from an approved source. Prior to commencement of filling operations details of the source of fill shall be submitted to the satisfaction of the General Manager of his delegate.

Once the approved haul route has been identified, payment of the Heavy Haulage Contribution calculated in accordance with Section 94 Plan No 4 will be required prior to commencement of works.

[DUR0725]

65. All lots must be graded to prevent the ponding of surface water and be adequately vegetated to prevent erosion from wind and/or water to the satisfaction of the General Manager or his delegate.

[DUR0745]

66. On completion of the filling work, all topsoil to be respread and the site to be grassed and landscaped.

[DUR0755]

67. No filling to is be placed hydraulically within twenty metres (20m) of any boundary that adjoins private land that is separately owned. Fill adjacent to these boundaries is to be placed mechanically.

No filling of any description is to be deposited, or remain deposited, within adjacent properties.

[DUR0765]

68. The proposed earthworks program shall be monitored by a Registered Geotechnical Testing Consultant to a level 1 standard in accordance with AS 3798. A certificate from a registered Geotechnical Engineer certifying that the filling operations comply with AS3798 shall be submitted to the Principal Certifying Authority upon completion.

[DUR0795]

69. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.

[DUR0805]

70. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.

[DUR0815]

71. All fill and cut batters shall be contained wholly within the subject land.

[DUR0825]

72. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.

[DUR0985]

73. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

74. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- (a) Noise, water or air pollution
- (b) Minimise impact from dust during filling operations and also from construction vehicles
- (c) No material is removed from the site by wind

[DUR1005]

75. The burning off of trees and associated vegetation felled by clearing operations or builders waste is prohibited. All such materials should be chipped on site and used in landscaping unless it is not possible due to size, non suitability of the material or some other limitation, in which case the material will be disposed of at Council's Stotts Creek depot.

[DUR1015]

76. All practicable measures must be taken to prevent and minimise harm to the environment as a result of the construction, operation and, where relevant, the decommissioning of the development.

[DUR1025]

77. Where the construction work is on or adjacent to public roads, parks or drainage reserves the development shall provide and maintain all warning signs, lights, barriers and fences in accordance with AS 1742.3-2202 (Manual of Uniform Traffic Control Devices). The contractor or property owner shall be adequately insured against Public Risk Liability and shall be responsible for any claims arising from these works.

[DUR1795]

78. Before the commencement of the relevant stages of road construction, reports shall be submitted to Council from a Registered NATA Consultant demonstrating.

- (a) That the pavement has been designed and constructed in accordance with Tweed Shire Councils adopted Construction and Design Specification, D2.
- (b) That the pavement materials to be used comply with the specifications tabled in Tweed Shire Councils adopted Design and Construction Specifications, C242-C245, C247, C248 and C255.
- (c) That site fill areas have been compacted to the specified standard.
- (d) That supervision of Bulk Earthworks has been to Level 1 and frequency of field density testing has been completed in accordance with Table 8.1 of AS 3798-1996.

[DUR1805]

79. All proposed road/streets, drainage and associated works within the development shall be designed and constructed in accordance with the development consent plans AND the relevant provision of DCP No. 16 - Subdivisions Manual and Development Design and Construction Specifications, except where varied by the conditions of this consent.
- [DUR1815]
80. During the relevant stages of road construction, reports shall be submitted to the PCA by a Registered NATA Geotechnical firm demonstrating.
- (a) That the pavement layers have been compacted in accordance with Councils adopted Design and Construction Specifications.
- (b) That pavement testing has been completed in accordance with Table 8.1 of AS 3798 including the provision of a core profile for the full depth of the pavement.
- [DUR1825]
81. Provision of temporary turning areas and associated signage for refuse vehicles at the end of roads which will be extended in subsequent stages. The temporary turning areas shall be constructed with a minimum 150mm pavement (CBR 45) and shall have a right of carriageway registered over the turning area until such time as the road is extended.
- [DUR1835]
82. The proponent must not undertake any work within the public road reserve without giving Council's Engineering & Operations Division forty eight (48) hours notice of proposed commencement. Failure to comply with this condition may result in a stop work notice being issued and/or rejection of the works undertaken.
- [DUR1845]
83. Pram ramps are to be constructed at road intersections in accordance with Council's Standard Drawing No. SD 014 within all kerb types including roll top kerb.
- [DUR1855]
84. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.
- [DUR1875]

85. The proponent shall comply with all requirements tabled within any approval issued under Section 138 of the Roads Act.

[DUR1885]

86. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, bikeways - formwork/reinforcement
- (h) Final inspections - on maintenance
- (i) Off Maintenance inspection

Water Reticulation, Sewer Reticulation, Drainage

- (a) Excavation
- (b) Bedding
- (c) Laying/jointing
- (d) Manholes/pits
- (e) Backfilling
- (f) Permanent erosion and sedimentation control measures
- (g) Drainage channels
- (h) Final inspection - on maintenance
- (i) Off maintenance

Sewer Pump Station

- (a) Excavation
- (b) Formwork/reinforcement
- (c) Hydraulics
- (d) Mechanical/electrical
- (e) Commissioning - on maintenance
- (f) Off maintenance

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

87. All retaining walls in excess of 1.2 metres in height must be certified by a Qualified Structural Engineer verifying the structural integrity of the retaining wall after construction.

[DUR1955]

88. The contractor is to maintain a copy of the development consent and Construction Certificate approval including plans and specifications on the site at all times.

[DUR2015]

89. The works are to be completed in accordance with Councils Development Control Plans and Design & Construction Specifications, including variations to the approved drawings as may be required due to insufficient detail shown on the drawings or to ensure that Council policy and/or good engineering practices are achieved.

[DUR2025]

90. The applicant shall obtain the written approval of Council to the proposed road/street names. Approved names are to be in accordance with Council's Road Naming Policy adopted on 7 August 1996 and are to be shown on the Plan of Subdivision accompanying the application for a Subdivision Certificate.

To avoid confusion resulting from duplication of private driveway/accessway name and public road/street names, the applicant shall submit to Council for approval the proposed name(s) of any private driveway/accessways.

[DUR2035]

91. Inter allotment drainage shall be provided to all lots where roof water for dwellings cannot be conveyed to the street gutter by gravitational means.

[DUR2285]

92. **Drainage Reserve**

- (a) Dedication of the proposed drainage reserve at no cost to Council.
- (b) An accurate plan of the proposed drainage reserve shall be submitted to Council 60 days prior to lodgement of Application for Subdivision Certificate (form 13) to allow the land to be classified.

Failure to comply with this condition may result in delays in the issue of the Subdivision Certificate.

[DUR2295]

93. All stormwater gully lintels shall have the following notice cast into the top of the lintel: 'DUMP NO RUBBISH, FLOWS INTO CREEK' or similar wording in accordance with Councils adopted Design and Construction Specification.

[DUR2355]

94. All stormwater discharged from the site including dewatering discharge is to be directed to a sediment pond prior to final discharge into any waterway in accordance with Council adopted Design and Construction Specifications.

[DUR2365]

95. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

96. The water quality control pond shall be fully fenced in accordance with the requirements of AS1926 for children less than five (5) years of age.

[DUR2385]

97. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.

[DUR2405]

98. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.

[DUR2415]

99. The site shall not be dewatered, unless written approval to carry out dewatering operations is received from the General Manager or his delegate.

[DUR2425]

100. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

101. All water drawn from Councils reticulated system shall be via a Tweed Shire Council metered standpipe. The location of the hydrant shall be nominated by Tweed Shire Council and all water shall be only used for the purposes nominated by the applicant for the duration of the construction activities.

[DUR2575]

102. An accurate plan of the sewage pumping station site shall be submitted to Council 60 days prior to lodgement of the Application for Subdivision Certificate to allow the land to be classified.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[DUR2635]

103. Implementation of the Stormwater Management Plan by Gilbert and Sutherland dated October 2004.

[DURNS01]

PRIOR TO ISSUE OF SUBDIVISION CERTIFICATE

104. Prior to issue of a subdivision certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[PSC0005]

105. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Stage 1

Water DSP2:	41.4 ET @ \$4230	\$175,122
Sewer Murwillumbah:	42 ET @ \$2634	\$110,628

Stage 2

Water DSP2:	23 ET @ \$4230	\$97,290
Sewer Murwillumbah:	23 ET @ \$2634	\$60,582

Stage 3

Water DSP2:	28 ET @ \$4230	\$118,440
Sewer Murwillumbah:	28 ET @ \$2634	\$73,752

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0265/PSC0165]

106. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Section 109J of the Environmental Planning and Assessment Act, 1979 a Subdivision Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

Stage 1

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0)	\$81,313
Sector9_4	
(b) Open Space (Structured): S94 Plan No. 5	\$32,760
(c) Street Trees: S94 Plan No. 6	\$12,474.00
(d) Shirewide Library Facilities: S94 Plan No. 11	\$28,896
(e) Bus Shelters: S94 Plan No. 12	\$1,092
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$5,502
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$8,400
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$53,289.60
(i) Cycleways S94 Plan No. 22	\$14,784
(j) Regional Open Space (Structured) S94 Plan No. 26	\$97,734
(k) Regional Open Space (Casual) S94 Plan No. 26	\$35,910

Stage 2

(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0)	\$44,529
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Sector9_4	
(b) Open Space (Structured): S94 Plan No. 5	\$17,940
(c) Street Trees: S94 Plan No. 6	\$6,831.00
(d) Shirewide Library Facilities: S94 Plan No. 11	\$15,824
(e) Bus Shelters: S94 Plan No. 12	\$598
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$3,013
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$4,600
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$29,182.40
(i) Cycleways S94 Plan No. 22	\$8,096
(j) Regional Open Space (Structured) S94 Plan No. 26	\$53,521
(k) Regional Open Space (Casual) S94 Plan No. 26	\$19,665
Stage 3	
(a) Tweed Road Contribution Plan: S94 Plan No. 4 (Version 4.0)	\$54,209
Sector9_4	
(b) Open Space (Structured): S94 Plan No. 5	\$21,840
(c) Street Trees: S94 Plan No. 6	\$8,316.00
(d) Shirewide Library Facilities: S94 Plan No. 11	\$19,264
(e) Bus Shelters: S94 Plan No. 12	\$728
(f) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$3,668
(g) Emergency Facilities (Surf Lifesaving)	\$5,600

S94 Plan No. 16

- (h) **Extensions to Council Administration Offices
& Technical Support Facilities** **\$35,526.40**

S94 Plan No. 18

- (i) **Cycleways** **\$9,856**

S94 Plan No. 22

- (j) **Regional Open Space (Structured)** **\$65,156**
S94 Plan No. 26

- (k) **Regional Open Space (Casual)** **\$23,940**
S94 Plan No. 26

[PCC0215/PSC0175]

107. Section 94 Contributions

Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.

These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.

A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.

Heavy Haulage Component

Payment of a contribution pursuant to Section 94 of the Act and the Heavy Haulage (Extractive materials) provisions of Tweed Road Contribution Plan No. 4 - Version 4.1 prior to the issue of a construction certificate or subdivision certificate, whichever occurs first. The contribution shall be based on the following formula:-

$$\text{\$Con}_{\text{TRCP - Heavy}} = \text{Prod.} \times \text{Dist} \times \text{\$Unit} \times (1 + \text{Admin.})$$

where:

$$\text{\$Con}_{\text{TRCP - Heavy}} \text{ heavy haulage contribution}$$

and:

- Prod.** projected demand for extractive material to be hauled to the site over life of project in tonnes
- Dist.** average haulage distance of product on Shire roads
(trip one way)
- \$Unit** the unit cost attributed to maintaining a road as set out in Section 6.4 (currently 2.5c per tonne per kilometre)
- Admin.** Administration component - 5% - see Section 6.5

[PSC0185]

- 108.** Pursuant to the provisions of S94 Plan No.5 proposed lot 148 shall be dedicated as passive open space and suitably embellished at no cost to Council in accordance with the approved landscaping plan.

Where a developer pays Council to complete the embellishment, Council will NOT install the equipment until a minimum of 30% of all lots in the development are occupied. Suitable embellishment shall be completed prior to the issue of a Subdivision Certificate.

[PSC0195]

- 109.** Prior to the issue of a Subdivision Certificate a defect liability bond (in cash or unlimited time Bank Guarantee) shall be lodged with Council.

The bond shall be based on 5% of the value of the works which will be held by Council for a period of 6 months from the date on which the Subdivision Certificate is issued. It is the responsibility of the proponent to apply for refund following the remedying of any defects arising within the 6 month period.

[PSC0215]

- 110.** A bond shall be lodged prior to the issue of the subdivision certificate to ensure that the landscaping is maintained by the developer for a period of 12 months from the date of issue of a Subdivision Certificate, or until all plantings are fully established. The amount of the bond shall be 10% of the estimated cost of the landscaping or \$3000 whichever is the greater.

[PSC0235]

111. Any damage to property (including pavement damage) is to be rectified to the satisfaction of the General Manager or his delegate PRIOR to the issue of a Subdivision Certificate. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate.

[PSC0725]

112. Prior to the issue of a Subdivision Certificate, Works as Executed Plans shall be submitted in accordance with the provisions of DCP16 - Subdivisions Manual and Councils adopted Design and Construction Specification.

The plans are to be endorsed by a Registered Surveyor OR a Consulting Engineer Certifying that:

- (a) all drainage lines, sewer lines and structures are wholly contained within the drainage easement created by the subdivision;
- (b) the plans accurately reflect the Work as Executed.

Note: Where works are carried out by Council on behalf of the developer it is the responsibility of the DEVELOPER to prepare and submit works-as-executed plans.

[PSC0735]

113. All retaining walls are to be certified by a suitably qualified geotechnical/structural engineer. The certification is to be submitted with the subdivision certificate application and shall state that the retaining walls have been designed and constructed in accordance with AS4678-2002 Earth Retaining Structures and are structurally sound.

In addition to the above certification, the following is to be included in the Section 88B Instrument to accompany the final plan of subdivision.

- (a) A restriction to user for each lot that has the benefit of a retaining wall that prevents any cut or fill greater than 0.3m in vertical height within a zone adjacent to the wall that is equal to the height of the wall.
- (b) Each lot burdened and or benefited by a Type 1 wall as defined in AS4678-2002 Earth Retaining Structures, shall contain a restriction to user advising the landowner of the need to maintain the wall in accordance with that standard.

Tweed Shire Council is to be nominated as the authority empowered to release, vary or modify the restrictions.

[PSC0785]

- 114. A Subdivision Certificate will not be issued by the General Manager until such time as all conditions of this Development Consent have been complied with.**

[PSC0825]

- 115. The creation of easements for services, rights of carriageway and restrictions as to user as may be applicable under Section 88B of the Conveyancing Act including the following:**

- (a) Easements for sewer, water supply and drainage over ALL services on private property.**
- (b) The creation of Easements for Sewage over all existing sewer lines currently traversing the site, which are not covered by easements**

Pursuant to Section 88BA of the Conveyancing Act (as amended) the Instrument creating the right of carriageway/easement to drain water shall make provision for maintenance of the right of carriageway/easement by the owners from time to time of the land benefited and burdened and are to share costs equally or proportionally on an equitable basis.

Any Section 88B Instrument creating restrictions as to user, rights of carriageway or easements which benefit Council shall contain a provision enabling such restrictions, easements or rights of way to be revoked, varied or modified only with the consent of Council.

[PSC0835]

- 116. Council's standard "Asset Creation Form" shall be completed (including all quantities and unit rates) and submitted to Council with the application for Subdivision Certificate.**

[PSC0855]

- 117. Where new state survey marks and/or permanent marks are placed a copy of the locality sketch relating to the marks shall be submitted to Council within three months of registration of the Subdivision Certificate in accordance with the Survey Practices Regulation.**

[PSC0865]

- 118. Prior to registration of the plan of subdivision, a Subdivision Certificate shall be obtained.
The following information must accompany an application:**

- (a) original plan of subdivision prepared by a registered surveyor and 7 copies of the original plan together with any applicable 88B Instrument and application fees in accordance with the current Fees and Charges applicable at the time of lodgement.
- (b) all detail as tabled within DCP16, CL 7.6 and Councils Application for Subdivision Certificate including the attached notes.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Supplies Authorities Act, 1987 to be certified by an Accredited Certifier.

[PSC0885]

119. Prior to the application for a Subdivision Certificate, certification shall be obtained from Council OR an accredited certifier to verify satisfactory completion of the following:-

- (a) Roads
- (b) Water Reticulation
- (c) Sewerage Reticulation
- (d) Sewerage Pump Station
- (e) Drainage

Note:

1. All applications must be accompanied by documentary evidence from the developers Subdivision Works Accredited Certifier (SWAC) certifying that the specific work for which a certificate is sought has been completed in accordance with the terms of the development consent, the construction certificate, DCP16 - Subdivision Manual and Councils adopted Design and Construction Specifications.
2. The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[PSC0915]

120. The six (6) months Defects Liability Period commences upon the registration of the Subdivision Certificate.

[PSC0925]

121. Prior to the issue of a Subdivision Certificate and also prior to the end of defects liability period, a CCTV inspection of the stormwater pipes and sewerage system including joints and junctions will be required to demonstrate that the standard of the stormwater system is acceptable to Council.

Any defects identified by the inspection are to be repaired in accordance with Councils adopted Development Design and Construction Specification.

All costs associated with the CCTV inspection and repairs shall be borne by the applicants.

[PSC1065]

122. Prior to the release of the subdivision certificate the proponent shall:

- (a) Ensure the proposed Drainage Reserve is dedicated to Council at no cost, as part of the plan of subdivision.**
- (b) Submit an accurate plan of the proposed drainage reserve to Council 60 days prior to lodgement of Application for Subdivision Certificate to allow the land to be classified.**

[PSC1075]

123. Prior to issuing a Subdivision Certificate, reticulated water supply and outfall sewerage reticulation shall be provided to all lots within the subdivision in accordance with DCP16 - Subdivisions Manual, Councils adopted Development Design and Construction Specifications and the Construction Certificate approval.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act , 2000 to be certified by an Accredited Certifier.

[PSC1115]

124. The site of the sewage pumping station shall be transferred to Council in fee simple, at no cost to Council within 28 days of the date of registration of the plan of subdivision.

[PSC1125]

125. The production of written evidence from the local telecommunications supply authority certifying that satisfactory arrangements have been made for the provision of underground telephone supply.

[PSC1165]

126. Electricity

- (a) The production of written evidence from the local electricity supply authority certifying that reticulation of underground electricity (residential and rural residential) has been completed; and
- (b) The reticulation to include the provision of fully installed electric street lights to the relevant Australian standard. Such lights to be capable of being energised following a formal request by Council.

[PSC1185]

127. Item 7.0 of the Morrison Geotechnical report addresses development constraints and nominates numerous areas of unstable ground. These constraints must be re-evaluated subsequent to bulk earthworks being completed and prior to the issue of any Subdivision Certificate. Any relevant nominated development constraints will be imposed as Restrictions on title.

[PSCNS01]

128. The applicant is to advise Council how it is intended to satisfy the post-construction stormwater monitoring requirements as nominated in the Stormwater Management Plan by Gilbert and Sutherland dated October 2004.

[PSCNS01]

129. Prior to the issue of any Subdivision Certificate pursuant to this consent, the applicant must demonstrate that all requirements of the revised Bushfire Management Plan, relevant to the corresponding stage of the subdivision release, have been satisfactorily addressed..

[PSCNS01]

130. A contribution of \$32,000, irrespective of any other Section 94 contribution, is payable by the applicant to Council for increased and ongoing maintenance to part of the adjoining Frangella Park, in accordance with Asset Protection Zone requirements.

This contribution is to be paid prior to issue of the Subdivision Certificate for Stage 1.

This contribution will remain fixed for a period of 12 months from the date of this consent, and thereafter may be varied in accordance with revised rates as deemed applicable by Council, at the time of lodgement of the Subdivision Certificate application.

[PSCNS02]

GENERAL TERMS OF APPROVAL UNDER SECTION 100B OF THE RURAL FIRES ACT 1997

1. The proposed roads shall comply with Section 4.3.1 of Planning for Bushfire Protection 2001, except for the requirement for a 20 metre road reserve.
2. The location of fire hydrants shall comply with the distances detailed in Section 6.4.3 of Planning for Bushfire Protection 2001. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.
3. Where achievable there shall be a minimum of 20 metres from future dwellings on Lots 115-122 to the reserve to the south west which shall be maintained as an Inner Protection Area (IPA) as outlined within Section 4.2.2(b) in Planning for Bushfire Protection 2001. If it is demonstrated that 20 metres is not achievable within the property boundaries, the RFS will consider the provision of a 15 metre IPA and a 1.8 metre high radiant heat shield. These lots shall not be duplex blocks unless the minimum 20 metres IPA can be provided. This is in recognition of the current management of the reserve and the limited extent of vegetation within the reserve.
4. A Bush Fire Management Plan shall be prepared for the proposed public and drainage reserves that are to be established as part of the proposal. This Plan shall address the following requirements;
 - Contact person / department and details of responsibilities for maintenance.
 - Schedule & description of works for the construction of Asset Protection Zones and their continued maintenance.
 - Management strategies, proposed schedule and description of works of any remnant bushland within the property boundary.

Note to Council: This assessment is based on the area identified as cultivated land and grazing paddocks being maintained. If these areas are left unmanaged, then a 20 metre IPA will be required for future dwellings on lots adjoining these areas.

REPORT:

Applicant: Metricon Qld Pty Ltd
Owner: Barnby Developments Pty Ltd
Location: Lot 13 DP 793985; Lot B DP 368706; and Lot 1 DP 392245, Barnby Street Murwillumbah
Zoning: 2(c) Urban Expansion
Cost: \$6,000,000

BACKGROUND:

On 23 February 2004 Council received a Master Plan for the proposed subdivision in accordance with the requirements of Council's DCP 16 – Subdivision Manual. The Master Plan was considered at the Council Meeting of 1 December 2004 where it was resolved as follows: -

“that Council defers this matter until after the 8 December 2004 Community Access session to allow residents of West Murwillumbah to put forward information for Council's consideration before final decisions are made about revisions to the Barnby Street Master Plan and before the public is notified of these revisions.”

The matter was then considered at the Council Meeting of 15 December where it was resolved as follows: -

“that:-

- 1. Before Council makes a final decision about the revised Master plan for the Barnby Street subdivision it conducts a traffic modelling study to review network options for mitigating impact on the existing and proposed Barnby Street precinct, including but not limited to a northern ring road.*
- 2. The model incorporate current traffic flows which result from these options.”*

Since this time the traffic modelling has been completed and subsequently in February 2006 Council resolved: -

“That the following road construction projects be incorporated into a draft amendment of the Tweed Road Contribution Plan:

- 1. Option 2 - West End Street connection to Barnby Street.*
- 2. Option 3 - Cane Road Extension from Queensland Road to the proposed Barnby Street Subdivision.”*

The results of the traffic modelling show that the proposed subdivision traffic can be absorbed into the local road network subject to Option 2 & 3 being added to the Tweed Road Contribution Plan.

Council's Traffic & Transport Engineer, and Development Engineer have now provided that the proposed subdivision can be supported on traffic grounds subject to the incorporation of suitable conditions of consent as detailed within the recommendation.

The remaining merits of this application have never been reported to Council and therefore this report details the complete assessment of the application having regard to the applicable planning instruments and the issues raised within the 20 individual submissions and the petition containing 27 signatures.

The revised application now seeks consent for a staged residential subdivision (3 stages) comprising 89 single dwelling lots (previously 86), 7 duplex blocks (previously 12), 1 drainage reserve, 1 residue lot & 2 public reserves.

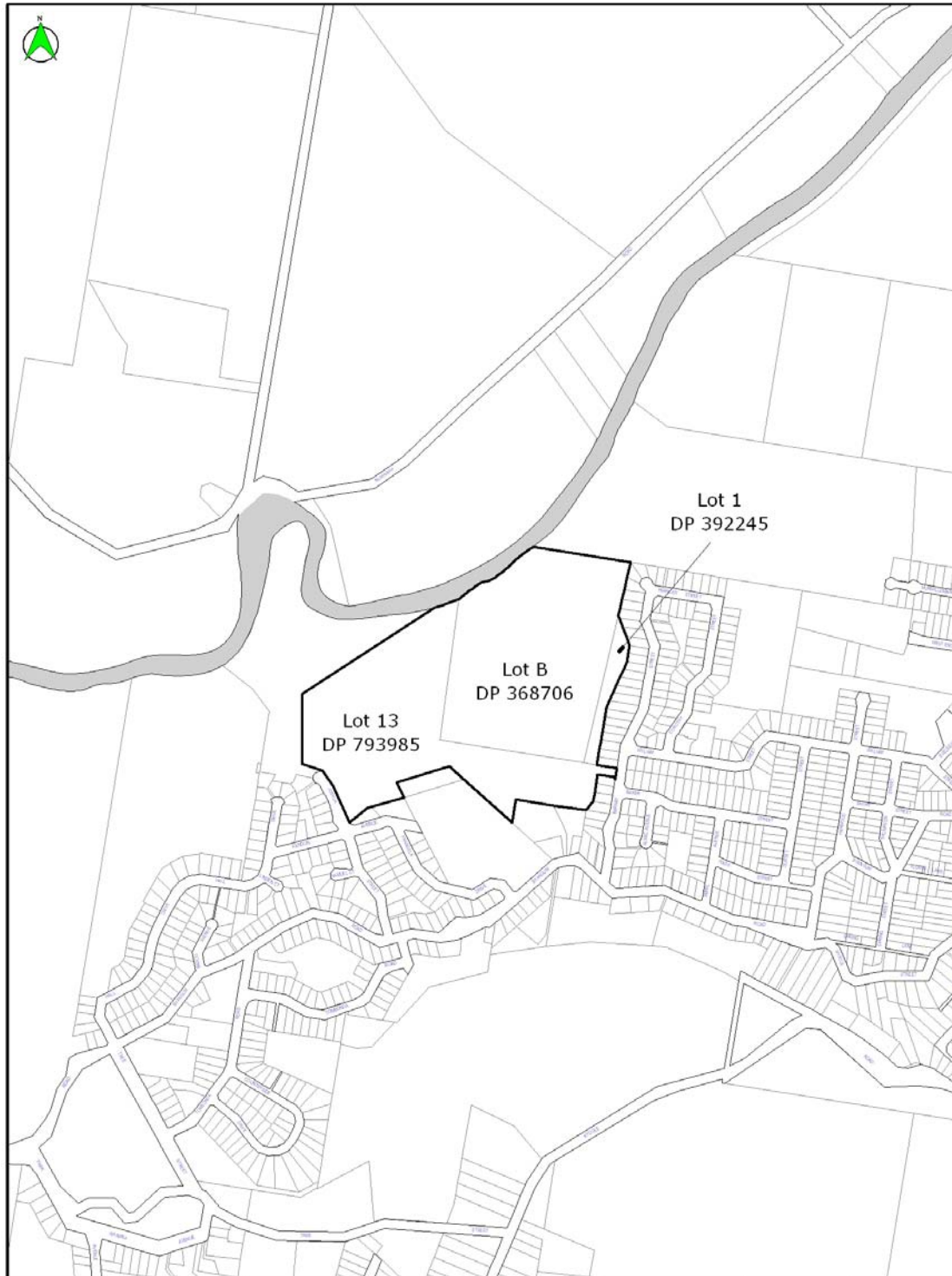
The application proposes site earthworks to fill the low lying flood prone areas of the site. The central ridge will in part provide the material for fill, however, the ridge will remain as a feature of the estate. This will allow a balanced cut and fill approach so that no importation of fill is required.

The application has been referred to various Government Departments including the Department of Planning & Natural Resources (now the Department of Planning and the Department of Natural Resources) for concurrence, Department of Primary Industries, Department of Environment & Conservation, and the NSW Rural Fire Service. The comments from various Departments are detailed in the following report.

The primary issues associated with this application are the extent of land forming, the acceptability of the proposal based on traffic grounds, the permissibility of ancillary structures on the adjoining agricultural land, and the potential loss of amenity for adjoining residences as a result of the development.

Based on the assessment of all of these issues the proposed subdivision is recommended for conditional approval.

SITE DIAGRAM:



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DO NOT SCALE
COPY ONLY - NOT CERTIFIED
 P.O. Box 819
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 Tel (02) 6670 2409
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Tweed Shire Council
 Lot 1 DP 392245, Lot B DP 368706, Lot 13 DP 793985
 Barnby Street, Murwillumbah
 File: N:\MapInfo 7...A4P Site Plan.Wor Author: C.Davis Date: 6/Dec/2005



STRATEGIC
 PLANNING UNIT
**Site
 Plan**
 Scale: 1:10,000 Sheet: 1 of 1

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The proposed subdivision relates to land that is zoned part 2(a) Low Density Residential, part 2(c) Urban Expansion and part 1(b2) Agricultural Protection.

The applicant is seeking support for the allotments within the subdivision over the land zoned 2(c) Urban Expansion but also proposes an external road connection, drainage reserves (water quality pond), and public open space over the 1(b2) Agricultural Protection Zone.

This issue was assessed as part of the Master Plan considerations where it was concluded that: -

The proposed residential subdivision requires the provision of a water quality pond and open space. The applicant has proposed that these be provided on land in the 1(b2) Agricultural Protection zone. As the use is ancillary to and a requirement for the subdivision of the residential zoned land and may be considered with the use of the variable zone boundary for development near zone boundaries this is considered to be an acceptable solution.

Urban stormwater water quality management facilities technically are permissible with consent in the 1(b2) zone providing the facility is considered to be consistent with the zone objectives. The zone primary objective aims at protecting prime agricultural land from fragmentation and the economic pressure of competing land uses.

There is an argument that the 1(b2) Agricultural Protection zone land is already fragmented and highly impacted on by the urban development in the area. With Rous River limiting the extent of the agricultural protection land there is minimal opportunity for the area to be fully utilised as part of a larger agricultural holding. It may be argued that an urban stormwater quality management facility is permissible with consent in the 1(b2) agricultural protection zone.

The provision of the drainage reserve and open space in the proposed location is considered to have merit when associated with other riparian open space and drainage reserve proposed over the entire future development. The potential to provide a significant buffer to Rous River and enhancement of this space is considered to be appropriate.

The above arguments are still considered applicable and therefore the proposed development including all ancillary roads, drainage reserves (water quality pond), and public open space areas are considered permissible.

Clause 17 addresses the need for a Social Impact Statement in respect of certain development. Tweed Development Control Plan 45 – Socio-Economic Impact Assessment (DCP 45) sets out Council's policy in this regard. It identifies subdivision, where more than 50 Lots are to be created, as requiring a Socio-Economic Impact Statement.

The applicant has undertaken a Socio Economic Impact Statement that shows there will be an increased demand on facilities and services resulting from the additional housing stock.

Council's Social Planner has reviewed the Statement and provided comments on all the social aspects of the development. Adequate bus and pedestrian links are considered essential and therefore Council's Development Engineer has provided appropriate conditions in this regard. Council's Social Planner also indicated that there would be justification in seeking a higher proportion of multi dwelling allotments, however, given the traffic issues and the nature of the surrounding area the proposed 7 duplex sites are considered sufficient to provide a mix of housing types. Therefore Clause 17 is considered to be satisfied.

Clause 20 specifies that the minimum size of each allotment created in the 1(b2) is to be 40 hectares. It is proposed to create a residual allotment with an area of 11.2 hectares, which is less than the minimum 40-hectare requirement. Accordingly, an objection under State Environmental Planning Policy No: 1 – Development Standards accompanies the Development Application accompanies the application.

The application was subsequently forwarded to the Department of Planning & Natural Resources for concurrence. On review of the submitted application and the material submitted as additional information the Department provided the following:

“Following consideration of the application, concurrence has been granted to vary the subdivision development standard contained in Clause 20(2) of tweed LEP 2000 to permit the creation of the residue lot in the 1(b2) zone.

Concurrence was granted in his instance as the excision of the 1(b2) land from the parent holding will allow the creation of residential lots in the 2(c) zone in accordance with its zoning.”

The Department has however expressed concern with use of the 1(b2) land for ancillary facilities including fill prior to the ultimate land use being determined. However, as detailed above these uses are considered permissible.

Clause 31 aims to protect and enhance scenic quality, water quality, aquatic ecosystems, biodiversity and wildlife habitat and corridors.

The application incorporates a 50m riparian buffer to the Rous River with water quality ponds further from the Rous River. Appropriate conditions are recommended to ensure the scenic and water quality of the Rous River are not negatively impacted as a result of this development.

Clause 34 aims to ensure that only compatible development occurs on flood liable land. The proposed residential subdivision is entirely consistent with the sites zoning for residential purposes.

Clause 34 also stipulates that development shall not be approved unless consideration has been given to the provisions contained within Development Control Plan No: 5 – Flood Liable Land (DCP 5). A revised Q100 year flood level of RL 5.1m AHD for this site has been adopted. Subsequently, a condition of consent is recommended to ensure all roads and lots are filled to a minimum RL of 5.1m AHD to achieve compliance with DCP No. 5. This fill will be obtained by undertaking a balanced cut and fill onsite negating the need for the importation of fill.

Clause 35 provides for the management of acid sulfate soils. The applicant's plans indicate that no excavation works within the lower areas of the development for the proposed water quality pond. A generic management plan was lodged with the application however a specific management plan will need to be prepared prior to issue of a Construction Certificate that reflects actual construction work detail and appropriate treatment methodology. The recommendation details appropriate conditions in this regard.

Clause 38 provides for the alignment of future roads. The proposed in fill residential subdivision is considered to generate the need for an additional access road. Council has previously resolved that West End Street connection to Barnby Street should be incorporated into a draft amendment of the Tweed Road Contribution Plan. The application has therefore been conditioned to ensure that any Construction Certificate for Stage 3 (Phase 2) will not be issued until satisfactory arrangements have been made with Council regarding construction of a new road connection between Francis Street and Road 2, generally as shown on Plan 7214/6/1-DA FIG 3.

Clause 39 aims to ensure that contaminated land is adequately remediated prior to development occurring. The applicant submitted a site contamination assessment that concluded that the site is suitable for the intended use.

Clause 39A aims to minimise bushfire risk to people and assets. The proposed subdivision is Integrated Development and requires a Bushfire Safety Permit under the Rural NSW Fire Act 1997. The RFS have granted approval and the recommended General terms of Approval have been incorporated into the development consent.

North Coast Regional Environmental Plan 1988

Clause 12 aims to ensure development on rural land does not occur unless consideration has been given to the impact of the proposed development on the use of adjoining or adjacent agricultural land and whether or not the development will cause a loss of prime crop or pasture land.

The topography of the land and the nature of the soils indicate that the subject site would be assigned agricultural land classes 4 and 5, which would best suit grazing.

The 1(b2) Agricultural Protection zone land is already fragmented and highly impacted on by the urban development in the area. With the Rous River limiting the extent of the agricultural protection land there is minimal opportunity for the area to be fully utilised as part of a larger agricultural holding. Furthermore, the need for a 50m riparian buffer further reduces the fragmentation of 1(b2) land in this location. For these reasons the use of agricultural land for drainage and open space is considered acceptable.

Clause 15 requires certain matters to be considered when carrying out development adjoining a river or stream. The proposed subdivision adjoins the Rous River, and therefore a 50m riparian buffer has been established to ensure the aesthetics of the river and water quality of the river are either maintained or improved.

Clause 43 sets out matters to be considered prior to granting consent for residential development purposes. The proposed layout achieves a density that utilises the available 2(c) zoning. In addition the proposed roads link in well with the existing road network and enable future public transport opportunities that would not otherwise been possible.

Clause 66 requires consideration of the adequacy of community and welfare services prior to granting consent to the subdivision of land for residential purposes. The proposed development is within close proximity to all the community facilities available to Murwillumbah. Whilst there will be capacity for a bus route it is envisaged that most people occupying this area would be car dependant, however, this is accounted for as the applicant will be charged a contribution towards the Tweed Road Contribution Plan for each lot based on each lot undertaking 6.5 daily vehicle trips.

Clause 81 aims to ensure that certain matters are considered prior to consent being granted for development adjacent to a waterway. Having regard to these matters the proposed development is considered suitable subject to the treatment of the 50m riparian buffer as required by the recommended conditions of consent.

State Environmental Planning Policies

State Environmental Planning Policy No: 1 – Development Standards

The proposed subdivision necessitates the use of SEPP 1 because of the creation of a residue allotment which is under the minimum size for land zoned 1(b2). As detailed above the Department of Infrastructure Planning & Natural Resources have granted concurrence in this regard.

State Environmental Planning Policy No: 11 – Traffic Generating Developments (SEPP 11)

The proposed development requires referral to Council's Traffic Committee in accordance with Schedule 2 of the Policy.

The application was subsequently referred to the Local Traffic Committee meeting of 21 April 2005.

The Committee noted that increased traffic movements on William Street due to its steepness is not desirable. There are concerns with the intersection of William Street and Byangum Road intersection and concerns were raised with Barnby Street and Byangum Road intersection. The Committee considers that an alternative access to the development should be part of any approval to alleviate the above traffic issues.

Council's Traffic and Transport Engineer and Development Engineer have reviewed these comments and ensured that all issues raised have been addressed by way of conditions of consent.

State Environmental Planning Policy No: 44 –Koala Habitat (SEPP 44)

This policy aims to encourage conservation and management of areas of natural vegetation, which provide habitat for koalas. There is no evidence of koala use of the site and no core koala habitat present and therefore there is no requirement to prepare a koala management plan.

State Environmental Planning Policy No: 55 –Remediation of Land (SEPP 55)

SEPP 55 requires consideration of the potential risks of land contamination for development and where necessary remediation.

The applicant submitted a site contamination assessment that concluded that the site is presently suitable for the intended use, being residential development.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

There are no applicable Draft Environmental Planning Instruments

(a) (iii) **Development Control Plans (DCP's)**

Development Control Plan No: 5 – Development of Flood Liable Land (DCP 5)

DCP.5 provides the flood mitigation strategy and standards for development to minimize the adverse effect of flooding on the community. A revised Q100 year flood level of RL 5.1m AHD for this site has been adopted. Subsequently, a condition of consent is recommended to ensure all roads and lots are filled to a minimum RL of 5.1m AHD to achieve compliance with DCP No. 5.

Development Control Plan No: 16 –Subdivision Manual (DCP 16)

This DCP contains Council's guidelines for the preparation of applications for subdivision and aims to facilitate Council's assessment and consideration of such applications.

Section 4.2.1 deals with environmental constraints such as contamination, bushfire, slip, visual character, and vegetation. All of these potential constraints have been assessed as part of this application. Specifically the applicant requests that Council maintain part of Frangella Park as an Asset Protection Zone (APZ) for this development. In negotiations with the applicant Council staff indicated that managing Frangella Park to an APZ standard would require additional work in ensuring this standard is maintained at all times. In this regard it is recommended the following condition of consent be imposed to compensate Council for the additional maintenance load: -

A contribution of \$32,000, irrespective of any other Section 94 contribution, is payable by the applicant to Council for increased and ongoing maintenance to part of the adjoining Frangella Park, in accordance with Asset Protection Zone requirements.

This contribution is to be paid prior to issue of the Subdivision Certificate for Stage 1.

This contribution will remain fixed for a period of 12 months from the date of this consent, and thereafter may be varied in accordance with revised rates as deemed applicable by Council, at the time of lodgement of the Subdivision Certificate application.

The Rural Fire Service is aware that Council is prepared to accept this responsibility and subsequently imposed the following condition of consent: -

Where achievable there shall be a minimum of 20 metres from future dwellings on Lots 115-122 to the reserve to the south west which shall be maintained as an Inner Protection Area (IPA) as outlined within Section 4.2.2(b) in Planning for Bushfire Protection 2001. If it is demonstrated that 20 metres is not achievable within the property boundaries, the RFS will consider the provision of a 15 metre IPA and a 1.8 metre high radiant heat shield. These lots shall not be duplex blocks unless the minimum 20 metres IPA can be provided. This is in recognition of the current management of the reserve and the limited extent of vegetation within the reserve.

In regards to the vegetation assessment, the applicant has submitted a Flora & Fauna Assessment produced by James Warren & Associates. This report concludes that there will be a loss of vegetation (approximately 15ha) and habitat. Of which, 1.26 ha consists of native vegetation, including the loss of 0.3ha of the Endangered Ecological Community (EEC) Swamp Sclerophyll forest on coastal floodplain.

The loss of this vegetation must be assessed against the sites potential for development in accordance with the 2(c) Urban Expansion Zone. The subject site could only be developed at a density consistent with the zone objectives if this vegetation was removed. Therefore despite this vegetation loss the application on balance is considered suitable. However, the James Warren & Associates report recommends amelioration measures which ensure the proposed subdivision is created having regard to the natural landscape and therefore the following conditions of consent are recommended:

The development shall be completed in accordance with the: -

- *Acoustic Report prepared by Savery & Assoc P/L, No. S514, dated 24 February 2005. Compliance shall be in accordance with the Section 6.0 Conclusions & recommendations to the satisfaction of the Director of Environment and Community Services.*
- *Acid Sulfate Soil Management Plan prepared by Gilbert & Sutherland dated October 2004;*
- *Flora and Fauna Assessment Plan prepared by James Warren & Associates dated March 2005.*

Section 4.2.2 deals with land forming whereby proposals to alter natural landform must:

- Not adversely impact other land, persons or public infrastructure;
- Preserve levels at site boundaries;
- Preserve significant natural watercourses, riparian vegetation, environmental and topographical features;
- Preserve the visual character of the landform as viewed from within and outside the land site;

- Preserve cross boundary drainage conditions; ensure runoff from upstream or upslope land is not adversely impeded;
- Ensure there are no adverse geotechnical consequences to the site or the other land;
- Ensure there are no adverse consequences to public infrastructure; and
- Minimise earthworks.

Appendix A of the DCP refers to a number of design specifications of which D6 – Site Regrading, is relevant in this matter. Specifically D6.05 contains land forming geometric criteria dealing with flat earth platforms, the provision of retaining walls or cut/fill batters on allotment boundaries. The following overall cut/fill provision states:

3. *The proportion of subdivision or development site (plan area) that contains cut or fill areas with finished surface levels that depart from natural surface levels by more than 5m shall not exceed 10%.*

On 26 April 2006 DCP 16 and D6 were amended to allow variations up to 15% of site area if such variations have an environmental benefit for example the avoidance of importing borrowed fill off site. However, due to the savings provisions of DCP 16 this application must be assessed against DCP 16 prior to this amendment. Prior to the amendment DCP 16 was more performance based and therefore the following assessment is merit based.

The proposed development shows on Drawing Number 7214/06 – DA FIG 10C dated 17 May 2006 that 17.5% of the site has earthworks with a depth greater than 8m.

As the Policy refers to a variation of 5m the actual % of the site that contains earthworks of greater than 5m is approximately 21%.

This is a departure from the numerical requirements of DCP 16 and D6.

Clause 1.8 of DCP 16 provides that

“Where development does not comply strictly with the provisions of the DCP, Council may still consider approving the development where the applicant demonstrates that the proposal is consistent with the objectives of the DCP and the intention of the particular guideline, and the proposed development will result in an environmentally more satisfactory development.”

The applicant justifies this departure on the following basis:

- *“The proposed earthworks achieve a cut/fill balance for the site thereby minimising the impact of construction traffic on residential amenity and on the surrounding traffic network*

- *The earthworks are necessary in order to achieve road gradients which comply with TSC Design Specification D1.*
- *Filling is required on the low-lying part of the site to ensure compliance with the 1:100 year flood level. The required filling alone would greatly exceed the land forming limitation of 10,000m³.*
- *Grading of the proposed lots is significantly improved thus minimising earthworks for future home building purposes. Dwelling construction costs would be lower and individual site viability improved. The impact of the proposed land forming on the landscape visual character and amenity is addressed in detail in the Visual Impact Assessment (Appendix I). It is concluded in that assessment that reducing cut depths to less than five(5) metres would make little difference in terms of the visual impact of the development.*
- *Alternatives to the proposed cut/fill balance were considered and were found to have greater constraints and greater environmental impact than the current proposal. Additionally, the alternative options were found not to comply with the land forming provisions of DCP16.*
- *Visual impacts would be reduced as a consequence of reducing future roofline levels. Views to the distant mountain ranges would become more accessible.”*

Having regard for the guidelines for assessment detailed in Clause 4.2.2 the following comments are provided;

- The visual implications of this non-compliance will not be significant. A complying cut and fill situation would have little difference to the visual merits of the proposed subdivision, as the removal of the hill from the topography will open up the views of the whole valley and mountain ranges;
- A certain amount of earthworks are needed to fill low-lying parts of the site to equal to or above the 1:100 year flood level. If such fill was not permitted development of this 2(c) Urban Expansion zoned land would not be possible; and
- A balanced cut and fill has been achieved on the site, which negates the need for the importation of additional fill material. This is considered to be more sustainable and overall more environmentally sensitive.

For these reasons the proposed level of earthworks is considered acceptable and result in this application being recommended for conditional approval.

Section 4.2.3 addresses storm water runoff, drainage, waterways and flooding. In this regard Council's Infrastructure Engineer and Development Engineer have assessed the application and the applicants storm water management plan and recommended conditions of consent to ensure the site is drained in accordance with all relevant guidelines.

Section 4.2.4 addresses setbacks and the need for a buffers. The proposed development has a 50m riparian buffer to Rous River and buffers to the sediment ponds, however, no agricultural buffer is considered necessary as the likely agricultural pursuits of sugar cane and grazing on the adjoining land are low impact and should not affect the amenity of the adjoining residents.

The Murwillumbah Sewerage Treatment Plant (STP) is located to the north of the Development and Council infrastructure is approximately 230 metres from the nearest residential allotment. Existing dwellings in Frances Street are located approximately 170 metres from the STP. The North Coast Regional Environmental Plan 1988 references the need for a 400 metre buffer between residential development and STP's when preparing Local Environmental Plans unless Council has assessed the extent of the hazard and included provisions in the plan to minimise adverse impacts from odour.

Council has undertaken augmentation work on the STP which resulted in the odour sources from the inlet works and extended aeration treatment units being covered and relocating the treatment units further to the north. These works were deemed to be satisfactory by the Public Works for the existing residents. As such it is considered the buffer of 230 metres to the nearest residential allotment as provided in the Master Plan and Development Application is satisfactory.

Section 4.3 of the plan addresses urban structure in regards to lot layout, open space provisions, movement network and structure.

In regards to road network, Council resolved at its meeting on 5 October 2005 to place the Murwillumbah distributor Road Network, Traffic Study (MDRS) prepared by Veitch Lister consulting on public exhibition.

Based on consideration of all available options and consideration of the public submissions Council resolved as follows: -

“the following road construction projects be incorporated into a draft amendment of the Tweed Road Contribution Plan:

- 1. Option 2 - West End Street connection to Barnby Street.*
- 2. Option 3 - Cane Road Extension from Queensland Road to the proposed Barnby Street Subdivision.”*

Council's Traffic and Transport Engineer has provided the following comments in relation to the study and its impact on the proposed subdivision: -

The key reason Council commissioned the MDRS Study was to consider the impacts of the proposed Barnby Street subdivision on the Murwillumbah Road Network. Council's resolution dated 15 December 2004 was as follows:

1. *Before Council makes a final decision about the revised Master plan for the Barnby Street subdivision it conducts a traffic modelling study to review network options for mitigating impact on the existing and proposed Barnby Street precinct, including but not limited to a northern ring road.*
2. *The model incorporate current traffic flows which result from these options.*

The results of the traffic modelling show that the subdivision traffic can be absorbed into the local road network subject to Option 2 & 3 being added to the TRCP. The benefits of these Options is that they actually decrease traffic on Byangum Road, William Street, Tumbulgum Road and the CBD. The negative impacts are the increases on Joshua Street and to a lesser extent West End Street.

The ultimate traffic levels on all these roads are manageable.

From the MDRS it is concluded that subject to any approval for the Barnby Street Subdivision incorporating the following road links, the Murwillumbah Road network can accommodate traffic from the development:

- a) *Construct a connecting road from West End Street through the Council Sewer Treatment Plant into the subdivision.*
- b) *Construct a connection road from the subdivision to Joshua Street*
- c) *Construct a road connection to Barnby Street (between William Street and Byangum Road)*

In conjunction with Options 2 and 3, these works will provide the connectivity to and from the proposed subdivision as required by Development Control Plan 16 and will prevent the subdivision having any substantial adverse impact on the substandard section of William Street and the intersection of William Street and Byangum Road."

Based on these comments Council's Traffic & Transport Engineer and Council's Development Engineer have formulated conditions of consent to ensure the adjoining road network is suitable to accommodate the additional traffic from this proposed subdivision.

In regards to the adequacy of open space Council's Open Space Officer has reviewed the plan of subdivision specifically in regard to the acceptability of the proposed open spaces areas. As a result the following condition of consent has been recommended:

A detailed landscape plan for the public reserve (park) proposed for northwest of Road 2 must be prepared to the satisfaction of the Manager, Recreation Services. This landscape plan will consider integration of the park with the drainage reserve and riparian buffer immediately west of the reserve. The landscape plan should provide for embellishment consistent with DCP 16 (Subdivision Manual) table 4.33b1.

Having regard to all other criteria the proposed subdivision application is considered to satisfy the performance criteria contained within DCP 16.

Development Control Plan No: 39 –Energy Smart Homes Policy (DCP 39)

DCP 39 aims to promote and create energy efficient homes and improve the quality and energy efficiency of residential subdivisions and buildings.

It is considered that all proposed lots will be capable of accommodating a dwelling that is energy efficient. There is a variety of allotment orientations and sizes that will enable flexibility when designing a suitable dwelling for each site.

Development Control Plan No: 44 –Dual Occupancy Controls (DCP 44)

This DCP requires that where a proposed subdivision creates more than 10 Lots, the dual occupancy lots are to be nominated in the subdivision development application.

The amended application incorporates 7 dual occupancy allotments on the following sites;

- Proposed lot 106, which has an area of 1147m²;
- Proposed lot 117, which has an area of 920 m²;
- Proposed lot 127, which has an area of 990.9 m²;
- Proposed lot 134, which has an area of 1000 m²;
- Proposed lot 136, which has an area of 901.9 m²;
- Proposed lot 139, which has an area of 902.6 m²;
- Proposed lot 328, which has an area of 930.3 m²;

DCP 44 requires nominated dual occupancy sites to be of sufficient size to provide flexible building envelope. This will usually mean:

- an area of not less than 900m²;
- is not a battleaxe allotment;
- regular square or rectangular shape with no large circular arc frontages to public roads;
- building orientation;
- orientation of private open space;
- provision of adequate vehicular access and parking; and

- satisfactory visual and aural privacy to adjoining lots.

The location of the lot should have

- access to existing and likely public transport routes;
- access to parks and other public open space facilities; and
- access to other services and facilities (eg, shopping facilities, clubs and the like).

The proposed dual occupancy allotments will generally allow for a design to satisfy these requirements.

Lot 117 may have difficulty in complying with the Rural Fire Service requirement (specifically Condition 3) which specifies that:

Where achievable there shall be a minimum of 20 metres from future dwellings on Lots 115-122 to the reserve to the south west which shall be maintained as an Inner Protection Area (IPA) as outlined within Section 4.2.2(b) in Planning for Bushfire Protection 2001. If it is demonstrated that 20 metres is not achievable within the property boundaries, the RFS will consider the provision of a 15 metre IPA and a 1.8 metre high radiant heat shield. These lots shall not be duplex blocks unless the minimum 20 metres IPA can be provided. This is in recognition of the current management of the reserve and the limited extent of vegetation within the reserve.

Therefore, prior to ultimate nomination of this allotment as a Dual Occupancy site the applicant is to demonstrate to Council that this condition can be complied with should a dual occupancy be built on this allotment. The following condition of consent is recommended:

Prior to issue of a Construction Certificate the applicant is to provide evidence to Council that Lot 117 can achieve a 20m Inner Protection Area while still accommodating a dual occupancy. Failure to satisfy this condition will result in Lot 117 not being a nominated dual occupancy allotment.

However any future buildings will obviously be subject to the lodgement of a further Development Application that will need to be assessed on its merits and against the applicable planning instruments at that time.

Development Control Plan No: 45 –Socio-Economic Impact Assessment (DCP 45)

DCP 45 details the type and size of development for which a Socio-Economic Impact Statement (SEIS) is required. The scale of the development in this case triggers the need for an SEIS.

As detailed above Council's social planner has reviewed the Statement and provided that it comments on all the essential social aspects of the

development. Adequate bus and pedestrian links are considered essential and therefore Council's Development Engineer has provided appropriate conditions in this regard. Council's Social Planner also indicated that there would be justification in seeking a higher proportion of multi dwelling allotments, however, given the traffic issues and the nature of the surrounding area the proposed 7 duplex sites are considered sufficient to provide a mix of housing types.

(a) (iv) Any Matters Prescribed by the Regulations

The proposed development has been assessed against all relevant matters as prescribed by the regulations and is considered to warrant conditional consent.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

The above report has addressed all issues pertaining to the potential impacts of the development. Subject to the recommended conditions of consent the application is considered to warrant Council's support.

(c) Suitability of the site for the development

The proposed site has been zoned for urban expansion purposes for many years. It is partially flood prone land that is physically constrained by existing development, an existing road network and the Rous River. The proposed subdivision pattern tries to address all of these constraints while utilising the 2(c) and 2(a) land.

The environmental benefits of this development include a balanced cut and fill, regrading to create lots with building areas that minimise the need for extensive retaining walls and batters and connections to the existing road network.

The existing topography of the subject land requires significant regrading in order to create smaller residential allotments, which have acceptable residential amenity. The existing use of the land for agricultural pursuits certainly provides the adjoining residents with a picturesque outlook. The proposed subdivision will alter that outlook, however, the proposed development will generally be sited below the surrounding residential properties and as a result of the earthworks to the ridge in the site, will allow adjoining residents to view a wider rural vegetative backdrop outside the release area. Therefore the visual character of the subdivision will be acceptable, within the context of a new release area.

(d) **Any submissions made in accordance with the Act or Regulations**

The Development Application was advertised for a period of 14 days from 13 April 2005 to 27 April 2005. During this period Council received a total of 20 individual objections and a further petition with 27 signatures opposing the development. The grounds for objection are summarised in the following table:

TOPIC	ISSUE	ASSESSMENT
Traffic	The extra 150 cars using Joshua Street and Byangum Road will cause congestion	<p>As detailed in the above report, the proposed development has been through a thorough assessment in regards to traffic.</p> <p>The Murwillumbah traffic study concluded that:</p> <p><i>The results of the traffic modelling show that the subdivision traffic can be absorbed into the local road network subject to Option 2 & 3 being added to the TRCP.</i></p> <p><i>The benefits of these Options is that they actually decrease traffic on Byangum Road, William Street, Tumbulgum Road and the CBD.</i></p> <p><i>The negative impacts are the increases on Joshua Street and to a lesser extent West End Street.</i></p> <p><i>The ultimate traffic levels on all these roads are manageable.</i></p> <p>Therefore, subject to the recommended conditions of consent the proposed development is considered acceptable on traffic grounds.</p> <p>These issues are not considered to warrant refusal of the application.</p>
	We do not want large earthmoving equipment thundering down Frangella Dr to Joshua Street	
	With only one access from Barnby Street this will create a safety issue with too many people utilising William Street.	
	There should be another road as an alternative to Byangum Road to ease traffic, as Byangum road is unsuitable for additional traffic.	
	The re-sealing of William Street is necessary but that won't affect the visibility problems with William Street.	
	The applicants Traffic Impact Assessment is unsatisfactory and has not fully addressed the local road network linkages.	
	Council should not consider this DA until traffic modelling is complete.	
	Barnby Street is inappropriate for access to a subdivision of this size	
	Use of Joshua Street for heavy machinery would be a significant hazard for young children in the vicinity of the childcare facility.	
	A ring road is needed in Murwillumbah.	

	<p>The road network can not accommodate this development.</p> <p>There is insufficient turning areas for larger vehicles.</p> <p>West end Street is too narrow.</p> <p>My property could potentially be bound on three sides by roads.</p> <p>The risk to pedestrian safety due to the proposed pressures on the road network.</p> <p>The applicants traffic report is based on poor data collection and reporting, poor research methodology, and poor assessment and omissions.</p> <p>The use of West End Street would decrease our business due to increased traffic noise</p>	
<u>Water Supply</u>	<p>The proposed development has not demonstrated that the towns water supply is sufficient to cater for this development</p>	<p>Council's Infrastructure Engineer has assessed the application and recommended conditions of consent to ensure the services for this development are satisfactory.</p> <p>These issues are not considered to warrant refusal of the application.</p>
	<p>Will this development affect our water pressure?</p>	
<u>Flooding</u>	<p>The raising of the subject land will cause flooding of other areas.</p>	<p>Council's Infrastructure Engineer has assessed the application and recommended conditions of consent to ensure the changing levels of the site do not impact on adjoining land.</p> <p>This issue is not considered to warrant refusal of the application.</p>

<p><u>Noise</u></p>	<p>Noisy trucks during construction will affect my amenity, as will the additional people within the approved subdivision.</p>	<p>Some impact on amenity is inevitable during construction. The recommended conditions of consent have imposed standards for construction that should protect residential amenity during construction.</p> <p>This issue is not considered to warrant refusal of the application.</p>
<p><u>Pollution</u></p>	<p>Caused by exhaust fumes, dust from trucks and silt due to land clearing.</p>	<p>As detailed above some impact on amenity is inevitable during construction.</p> <p>The recommended conditions of consent have imposed standards for construction that should protect residential amenity during construction.</p> <p>This issue is not considered to warrant refusal of the application.</p>
	<p>Increased health risk from the creation of water quality and stormwater retention ponds.</p>	<p>The proposed water quality control devices will ensure all site runoff and overland flow is treated and water quality is improved.</p> <p>This issue is not considered to warrant refusal of the application.</p>
<p><u>Lack of Open Space</u></p>	<p>With additional people will come additional pets that need exercising. The existing park in Frangella drive can not cater for more people</p>	<p>The proposed development incorporates a 50m riparian zone and a new public park that is to be provided at Stage 1. Council's Open Space Officer is satisfied that these facilities will cater for the proposed development.</p>
	<p>No public reserve will come into line until stage 3 this is unsatisfactory.</p>	<p>Council has recommended a condition of consent as follows:</p> <p><i>The Public Reserve and Drainage Reserve shall be dedicated as part of the Stage 1 works.</i></p> <p>This condition addresses this concern.</p>
	<p>There will be a loss of playing fields at Brothers Leagues Club.</p>	<p>The proposed development will not result in any loss to the Brothers Leagues Club.</p>

<u>Loss of Sugar Growing Lands and Agricultural Protection Lands</u>	Soils in the agricultural protection zone comprise alluvial flood plain soils that are particularly suited to cultivation and intense food production.	The proposed development does rely on adjacent agricultural lands for ancillary facilities. These uses are considered permissible and suitable given the already fragmented agricultural land.
<u>Land Use Conflicts and Buffer Requirements</u>	Production of sugar can severely impact the urban lifestyle and therefore sufficient buffers are needed to protect urban allotments	No agricultural buffer is considered necessary as the likely agricultural pursuits of sugar cane and grazing on the adjoining land are low impact and should not affect the amenity of the adjoining residents.
	The adjoining agricultural land should be rezoned before this application is approved to ensure alternative access points can be addressed.	The application has been thoroughly assessed in regards to the capacity of the local road network. Based on this assessment the application is considered to warrant conditional approval.
<u>Conflicts with the applicable statutory documents</u>	The proposal conflicts with the sustainability principals of the EP&A Act 1979, NCREP, Tweed Strategic Plan 2000+, and the Tweed LEP 2000.	The above report has undertaken an assessment of the application against Section 79C of the Environmental Planning & Assessment Act 1979. On balance of all the issues the application is considered satisfactory to warrant recommendation for conditional consent.
<u>Public Interest</u>	The application is not in the public interest as it conflicts with the applicable planning instruments.	The application has attracted interest from the broader community, however, to utilise the 2(c) Urban Expansion Zone the proposed development is considered to balance all requirements and come up with a development that has had regard for the area and the applicable controls. Therefore this development is considered to be in the broader community interest.
<u>Vegetation Loss</u>	The site contains significant vegetation that should not be removed.	The site does contain native vegetation and an Endangered Ecological

	Removal of native habitat is not supported.	Community. On balance of all issues and the extent of damage to this vegetation the application warrants conditional. However, environmental considerations is only one assessment criteria. On balance of all issues the application warrants conditional consent.
<u>Earthworks</u>	The significant changes to the natural landform and large scale earthworks are to be avoided to reserve the natural visual quality.	<p>The reasonableness of the numerical non-compliance with the land forming criteria can only be assessed from a visual character perspective. This criterion provides that where it is proposed to later natural landform the proposal "must preserve the visual character of the landform as viewed from within and outside the land site".</p> <p>The existing topography of the subject land requires significant regrading in order to create smaller residential allotments, which have acceptable residential amenity. The existing use of the land for agricultural pursuits certainly provides the adjoining residents with a picturesque outlook. The proposed subdivision will alter that outlook, however, the proposed development will generally be sited below the surrounding residential properties and as a result of the earthworks to the ridge in the site will allow adjoining residents to view a wider rural vegetative backdrop outside the release area. Therefore the visual character of the subdivision will be acceptable, within the context of a new release area.</p>
	Earthworks are outside the permissible guidelines.	
	The application contravenes DCP 16.	
	The developer proposes to cut up to 13m from the central hill over 7% of the site which exceeds the requirements of DCP 16.	
	The change in topography will increase winds for some residents.	
	It an environmentally damaging practice.	
<u>Density</u>	The maximising of yield regardless of environmental outcomes is unacceptable.	The proposed development meets the intended density for 2(c) land in accordance with the Tweed LEP 2000.
	The density should be lower.	

<u>Road Name</u>	“Riva Vue” would be confusing for local emergency services given the amount of similar street names in the vicinity.	The ultimate street name will be determined prior to subdivision certificates being issued, this issue will be considered at that time.
<u>Future House Designs</u>	The application does not propose any covenants for future building design to ensure good environmental design.	The developer has not chosen a theme or development requirements at this stage. Council will ultimately determine whether individual houses are appropriate as part of future Development Applications.
<u>Loss in Amenity</u>	The proposed development should be of lower density.	The proposed development meets the intended density for 2(c) land in accordance with the Tweed LEP 2000.
	There would be a loss of panoramic views looking westward	The proposed subdivision will alter that outlook, however, the proposed development will generally be sited below the surrounding residential properties and as a result of the earthworks to the ridge in the site will allow adjoining residents to view a wider rural vegetative backdrop outside the release area. Therefore the visual character of the subdivision will be acceptable, within the context of a new release area.
	There has been insufficient socio economic assessments	As detailed in the above report Council is satisfied from a Socio-economic perspective.
<u>False Statements from the applicant</u>	The applicant makes numerous claims in its Statement of Environmental Effects that appear to be manipulative or false.	Council has independently assessed the application and not solely relied upon the SEE, based on this assessment the application is recommended for conditional consent.
<u>Master Plan</u>	Nothing has changed from the originally submitted Master Plan which was inadequate.	The adequacy of the Master Plan was never determined due to the need for the completion of the Murwillumbah Traffic Study. Based on this information the concept of the Master Plan can now be determined.

<u>Strategic Planning</u>	There has been lack of consideration to strategic planning and vision for Murwillumbah's future.	The strategic planning for this site occurred at the time the site was zoned for urban expansion purposes. The proposed subdivision is in direct response to that strategic vision.
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(e) Public interest

The application has generated interest from many residents concerned about traffic, the extent of earthworks and the general appropriateness of the development for the site. These objections must be considered having regard to the planning context of the site. The application has been zoned for residential purposes for many years and to facilitate development in this zone it is necessary to fill all residential allotments to above the design flood level. The proposed balanced cut and fill is considered to be the better solution to that of fill importation and therefore the proposed development is considered to be an appropriate balance.

OPTIONS:

1. Indicate support for the Master Plan and Development Application subject to the appeal being withdrawn from the Court and the recommended conditions of consent being imposed; or
2. Refuse the Development Application and defend the Appeal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Council will incur legal costs in relation to the subject Appeal.

POLICY IMPLICATIONS:

The proposed development has addressed all planning policies applicable to this development. The application is considered to have satisfied the Policies based on the performance criteria of each relevant plan and therefore warrants conditional approval.

CONCLUSION:

The proposed application warrants conditional approval. The principal issues of land forming, traffic congestion, use of agricultural land and general amenity have all been assessed. Individually and combined these issues do not warrant refusal.

The concerns regarding the change to the visual character arising out of the amount of land forming do not warrant refusal. The proposed development will generally be sited below the surrounding residential properties and as a result of the earthworks to the ridge in the site will allow adjoining residents to view a wider rural vegetative backdrop outside the release area. Therefore the visual character of the subdivision will be acceptable, within the context of a new release area.

Based on the relevant performance criteria all applicable planning instruments have been satisfied and therefore the proposed development warrants conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Council Report on MP04/0001 dated 15/12/2004 (DW 1132549)
 2. Development Plans x 3 (DW 1404692)
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P8 [PD-PC] DA05/1129 for the Demolition of Existing Dwelling House and Construction of Multi Dwelling Housing in Two (2) Storeys Comprising Six (6) Units and Car Parking for Ten (10) Vehicles at Lot 1 DP 780223, No. 5 Peninsula Street, Hastings Point

ORIGIN:

Development Assessment

FILE NO: DA05/1129 Pt1

SUMMARY OF REPORT:

Council has received a Development Application which proposes the erection of a two storey multi-dwelling residential development comprising a total of five three-bedroom dwellings and one two bedroom dwelling, with each unit being designed over two levels with basement car parking. A total of six car parking spaces, three visitor spaces and a car wash bay are provided on the site within a basement area. The car parking is accessed via a driveway access from Peninsula Street, which is constructed to a two lane, sealed standard.

The application proposes minor non-compliances with the Acceptable Solutions offered within DCP 6; in addition, the application attracted 5 public submissions. The issues raised are addressed later within this report. The objectives of DCP 6 are considered to be complied with and the application is recommended for approval, having regard to the medium-density land-use controls in this area.

The assessment of the proposal against the relevant planning instruments has not identified any areas of non-compliance that would warrant refusal of the proposal. The application is recommended for approval.

RECOMMENDATION:

That Development Application DA05/1129 for the demolition of existing dwelling house and construction of multi dwelling housing in two (2) storeys comprising six (6) units and car parking for ten (10) vehicles at Lot 1 DP 780223, No. 5 Peninsula Street Hastings Point be approved subject to the following conditions: -

GENERAL

- 1. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.**

[GEN0115]

2. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.
[GEN0015]
3. The development shall be completed in accordance with the Statement of Environmental Effects and Plan Nos 1-9 prepared by Turners Design Construction Consultants Building Designer and dated 17 March 2006, except where varied by the conditions of this consent.
[GEN0005]
4. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.
[GEN0045]
5. The use of EXTERNAL ground anchors, sheet piling or any other like method that extends beyond the property boundary is not permitted or approved by this consent, except where the written permission to carry out such works and the details of works have been submitted and approved with the Construction Certificate.
[GENNS01]
6. The proposed development is to comply with the provisions of the NSW Rural Fire Service 'Planning for Bushfire Protection 2001 Guidelines'.
[GENNS02]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

7. The footings and floor slab are to be designed by a practising Structural Engineer after consideration of a soil report from a NATA accredited soil testing laboratory and shall be submitted to and approved by the Principal Certifying Authority prior to the issue of a construction certificate.
[PCC0945]
8. A construction certificate application for works that involve any of the following:-
 - connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC1145]

9. All imported fill material shall be from an approved source. Prior to the issue of a construction certificate details of the source of fill, documentary evidence that the fill material is free of any contaminants and haul route shall be submitted to Tweed Shire Council for approval.

[PCC0465]

10. The engineering plans and specifications to accompany the Construction Certificate application shall provide for the following:

- (a) The provision of kerb & gutter and associated road widening along the full frontage of the site.
- (b) A 1.2m concrete footpath is to be provided along the full frontage of the site.
- (c) The driveway is to comply with Council's Driveway Access to Property Specifications. The width of the driveway to be 6.5m wide at the kerb line.

[PCCNS01]

11. In accordance with Section 109F(i) of the Environmental Planning and Assessment Act 1979 (as amended), a construction certificate for SUBDIVISION WORKS OR BUILDING WORKS shall NOT be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act, 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided.

[PCC0285]

12. The site is to be filled to a minimum level of RL 2.4m AHD. The fill is to be retained by perimeter structural walls with concrete lined perimeter drainage or other approved treatment. Site filling and associated drainage is to be designed to address drainage on the site as well as existing stormwater flows onto or through the site, and minimizing the impact of filling on local drainage. Detailed engineering plans of fill levels and perimeter drainage shall be submitted with a S68 stormwater application for Council approval.

[PCC0675]

13. The basement car parking is to be protected against the inflow of water to a level of 500mm above the design flood level of RL 2.4m AHD in accordance with DCP5 - Development of Flood Liable Land. A detailed design of the basement stormwater pump out system is to be provided designed for a storm event with a 10 year average return interval (ARI 10) and the consequences of pump failure and the 100 year ARI storm event must be addressed and included with the above details prior to the issue of a Construction Certificate.

[PCC0685]

14. Prior to the issue of a Construction Certificate the following detail in accordance with Councils adopted Development Design and Construction Specifications shall be submitted to the Principal Certifying Authority for approval.
- (a) copies of compliance certificates relied upon
 - (b) four (4) copies of detailed engineering plans and specifications. The detailed plans shall include but are not limited to the following:
 - earthworks
 - roadworks/pavement design/furnishings
 - stormwater drainage
 - water supply works
 - sewerage works
 - landscaping works
 - sedimentation and erosion management plans
 - location of all service conduits (water, sewer, Country Energy and Telstra)

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 and Section 138 of the Roads Act to be certified by an Accredited Certifier.

[PCC0985]

15. Permanent stormwater quality treatment shall be provided in accordance with the following:
- (a) The Construction Certificate Application shall include a detailed stormwater management plan (SWMP) for the occupational or use stage of the development prepared in accordance with Section D7.07 of Councils *Development Design Specification D7 - Stormwater Quality*.
 - (b) Permanent stormwater quality treatment shall comply with section 5.5.3 of the Tweed Urban Stormwater Quality Management Plan and Councils *Development Design Specification D7 - Stormwater Quality*.
 - (c) The stormwater and site works shall incorporate water sensitive design principles and where practical, integrated water cycle management. Typical water sensitive features include infiltration, maximising permeable/landscaped areas, stormwater retention /detention/reuse, and use of grass swales in preference to hard engineered drainage systems.

[PCC1105]

16. Erosion and Sediment Control shall be provided in accordance with the following:

- (a) The Construction Certificate Application must include a detailed erosion and sediment control plan prepared in accordance with Section D7.07 of *Development Design Specification D7 - Stormwater Quality*.
- (b) Construction phase erosion and sediment control shall be designed, constructed and operated in accordance with *Tweed Shire Council Development Design Specification D7 - Stormwater Quality* and its Annexure A - "Code of Practice for Soil and Water Management on Construction Works".
- [PCC1155]
17. An application shall be lodged and approved by Tweed Shire Council under Section 68 of the Local Government Act for any water, sewerage or drainage works prior to the issue of a construction certificate.
- [PCC1195]
18. Design detail shall be provided to address the flood compatibility of the proposed structure including the following specific matter:
- (a) The habitable area of the building is to be at a level no less than 300mm above the design flood level of RL 2.40m AHD.
- [PCC0705]
19. Section 94 Contributions
- Payment of the following contributions pursuant to Section 94 of the Act and the relevant Section 94 Plan.
- Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 94 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" signed by an authorised officer of Council.
- A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.**
- These charges will remain fixed for a period of 12 months from the date of this consent and thereafter in accordance with the rates applicable in the current version/edition of the relevant Section 94 Plan current at the time of the payment.
- A copy of the Section 94 contribution plans may be inspected at the Civic and Cultural Centres, Tumbulgum Road, Murwillumbah and Brett Street, Tweed Heads.
- (a) Tweed Road Contribution Plan: \$11,614
S94 Plan No. 4 (Version 4.0)
Sector8a_4

(b) Open Space (Structured): S94 Plan No. 5	\$2,280
(c) Open Space (Casual): S94 Plan No. 5	\$487
(d) Shirewide Library Facilities: S94 Plan No. 11	\$2,012
(e) Eviron Cemetery/Crematorium Facilities: S94 Plan No. 13	\$409
(f) Community Facilities (Tweed Coast - South) S94 Plan No. 15 South Coast	\$2,920
(g) Emergency Facilities (Surf Lifesaving) S94 Plan No. 16	\$586
(h) Extensions to Council Administration Offices & Technical Support Facilities S94 Plan No. 18	\$3,708.45
(i) Cycleways S94 Plan No. 22	\$1,028
(j) Regional Open Space (Structured) S94 Plan No. 26	\$6,799
(k) Regional Open Space (Casual) S94 Plan No. 26	\$2,499

[PCC0215]

20. A certificate of compliance (CC) under Sections 305, 306 and 307 of the Water Management Act 2000 is to be obtained from Council to verify that the necessary requirements for the supply of water and sewerage to the development have been made with the Tweed Shire Council.

Pursuant to Clause 146 of the Environmental Planning and Assessment Regulations, 2000, a Construction Certificate shall NOT be issued by a Certifying Authority unless all Section 64 Contributions have been paid and the Certifying Authority has sighted Council's "Contribution Sheet" and a "Certificate of Compliance" signed by an authorised officer of Council.

Annexed hereto is an information sheet indicating the procedure to follow to obtain a Certificate of Compliance:

Water DSP6:	4.6 ET @ \$4598	\$21,151
Sewer Hastings Point:	5.75 ET @ \$2863	\$16,462

These charges to remain fixed for a period of twelve (12) months from the date of this consent and thereafter in accordance with the rates applicable in Council's adopted Fees and Charges current at the time of payment.

A CURRENT COPY OF THE CONTRIBUTION FEE SHEET ATTACHED TO THIS CONSENT MUST BE PROVIDED AT THE TIME OF PAYMENT.

Note: The Environmental Planning and Assessment Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an Accredited Certifier.

[PCC0265]

PRIOR TO COMMENCEMENT OF WORK

21. The erection of a building in accordance with a development consent must not be commenced until:

- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and**
- (b) the person having the benefit of the development consent has:**
 - (i) appointed a principal certifying authority for the building work, and**
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and**
- (c) the principal certifying authority has, no later than 2 days before the building work commences:**
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and**
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and**
- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-builder, has:**
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and**
 - (ii) notified the principal certifying authority of any such appointment, and**

- (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

22. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

23. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

24. A temporary builder's toilet is to be provided prior to commencement of work at the rate of one (1) closet for every twenty (20) persons or part of twenty (20) persons employed at the site. Each toilet provided must be:-

- (a) a standard flushing toilet connected to a public sewer, or
- (b) if that is not practicable, an accredited sewage management facility approved by the council

[PCW0245]

25. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and**
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and**
- (c) stating that unauthorised entry to the site is prohibited.**

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

26. Please note that while the proposal, subject to the conditions of approval, may comply with the provisions of the Building Code of Australia for persons with disabilities your attention is drawn to the Disability Discrimination Act which may contain requirements in excess of those under the Building Code of Australia. It is therefore recommended that these provisions be investigated prior to start of works to determine the necessity for them to be incorporated within the design.

[PCW0665]

27. It is a condition of this approval that, if an excavation extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made must comply with the following:

- (a) The person must, at the person's own expense:**
 - (i) preserve and protect the building from damage; and**
 - (ii) if necessary, underpin and support the building in an approved manner.**
- (b) The person must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars to the owner of the proposed work.**

[PCW0765]

28. The building is to be protected from attack by termites by approved methods in accordance with the provisions of Australian Standard AS 3660.1, and:

- (a) Details of the proposed method to be used are to be submitted to and approved by the Principal Certifying Authority prior to start of works; and
- (b) Certification of the works performed by the person carrying out the works is to be submitted to the PCA; and
- (c) A durable notice must be permanently fixed to the building in a prominent location, such as in the electrical meter box indicating:-
 - (i) the method of protection; and
 - (ii) the date of installation of the system; and
 - (iii) where a chemical barrier is used, its life expectancy as listed on the National Registration Authority label; and
 - (iv) the need to maintain and inspect the system on a regular basis.

Note: Underslab chemical treatment will not be permitted as the only method of treatment unless the area can be retreated without major disruption to the building.

[PCW0775]

29. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0985]

30. An application to connect to Council's sewer or carry out plumbing and drainage works, together with any prescribed fees including inspection fees, is to be submitted to and approved by Council prior to the commencement of any building works on the site.

[PCW1065]

31. Where any pumps used for dewatering operations are proposed to be operated on a 24-hour basis, the owners of adjoining premises shall be notified accordingly prior to commencement of such operations.

[PCW0125]

32. The proponent shall locate and identify all existing underground services prior to commencing works and ensure there shall be no conflict between the proposed development and existing infrastructure including areas external to the development site where works are proposed.

[PCW0005]

DURING CONSTRUCTION

33. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

**Monday to Saturday from 7.00am to 7.00pm
No work to be carried out on Sundays or Public Holidays**

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

34. All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).

[DUR0375]

35. Provision shall be made for the collection of builder's solid waste in accordance with the following requirements:

- (a) A temporary builder's waste chute is to be erected to vertically convey builder's debris to a bulk container.
- (b) The chute shall be located in a position approved by the Principal Certifying Authority.
- (c) A canopy shall be provided to the chute outlet and container to reduce the spillage of materials and nuisance caused by dust.

[DUR0385]

36. Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.

[DUR0395]

37. The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.

[DUR0405]

38. It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied in accordance with WorkCover 2000 Regulations.

[DUR0415]

39. (a) All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with WorkCover 2000 Regulations.

(b) All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

[DUR0425]

40. If the work involved in the erection or demolition of a building:

(a) is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient; or

(b) building involves the enclosure of a public place,

a hoarding or fence must be erected between the work site and the public place in accordance with the WorkCover Authority of NSW Code of Practice and relevant Australian Standards.

Where necessary the provision for lighting in accordance with AS 1158 - Road lighting and provision for vehicular and pedestrian traffic in accordance with AS 1742 shall be provided.

Any such hoarding, fence or awning is to be removed prior to the issue of an occupation certificate/subdivision certificate.

Application shall be made to Tweed Shire Council including associated fees for approval prior to any structure being erected within Councils road reserve.

[DUR0435]

41. All demolition work is to be carried out in accordance with the provisions of Australian Standard AS 2601 "The Demolition of Structures" and to the relevant requirements of the WorkCover Authority.

[DUR0645]

42. All demolition works are to observe the guidelines set down under the Environment Protection Authority publication "A Renovators Guide to the Dangers of Lead" and the WorkCover guidelines on working with and handling of asbestos.

[DUR0655]

43. Minimum notice of 48 hours shall be given to Tweed Shire Council for the capping of any disused sewer junctions. Tweed Shire Council staff in accordance with the application lodged and upon excavation of the service by the developer shall undertake Works.

[DUR0675]

44. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -

- Noise, water or air pollution
- Minimise impact from dust during filling operations and also from construction vehicles
- No material is removed from the site by wind

[DUR1005]

45. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings.

[DUR1875]

46. A certificate from a suitably qualified practicing structural engineer shall be submitted to Council and the Principle Certifying Authority within seven (7) days of the site being excavated certifying the adequacy of the sheet piling or other retaining method used to support adjoining properties.

[DUR1965]

47. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

48. Plumbing

- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
- (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage.

[DUR2495]

49. An isolation cock is to be provided to the water services for each unit in a readily accessible and identifiable position.

[DUR2505]

50. All water plumbing pipes concealed in concrete or masonry walls shall be fully lagged.

[DUR2525]

51. Back flow prevention devices shall be installed wherever cross connection occurs or is likely to occur. The type of device shall be determined in accordance with AS 3500.1 and shall be maintained in working order and inspected for operational function at intervals not exceeding 12 months in accordance with Section 4.7.2 of this Standard.

[DUR2535]

52. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level.

[DUR2545]

53. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-

- * 45⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
- * 50⁰C in all other classes of buildings.

A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works.

[DUR2555]

54. Where two (2) or more premises are connected by means of a single water service pipe, individual water meters shall be installed to each premise beyond the single Council water meter (*unless all the premises are occupied by a single household or firm*).

[DUR2615]

55. All excavation works shall be carried out in accordance with the Acid Sulfate Management Plan (ASMP) for 5 Peninsula Street, Hastings Point prepared by Precise Environmental Pty Ltd dated 8 March 2006 (Job No: PE18.06).

[DURNS01]

56. All works shall be carried out in accordance with the Dewatering Management Plan for 5 Peninsula Street, Hastings Point prepared by Precise Environmental Pty Ltd dated 8 March 2006 (Job No: PE18.06).

[DURNS02]

57. Any clean fill material reused on the site shall be taken from the first meter below the ground surface only and shall not contain acid sulfate soil.

[DURNS03]

58. Any pumps used for onsite dewatering operations are to be installed on the site in a location that will minimise any noise disturbance to neighbouring residential areas. Such location is to be to the satisfaction of the General Manager or his delegate.
[DUR0225]
59. All pumps used for any onsite dewatering operations shall be acoustically shielded to the satisfaction of the General Manager or his delegate so as to prevent the emission of offensive noise as a result of their operation.
[DUR0235]
60. Pumps used for dewatering operations are to be electrically operated. Diesel pumps are not to be used unless otherwise approved by Tweed Shire Council.
[DUR0255]
61. All battered areas are to be topsoiled and grassed, or other suitable protection provided as soon as filling is placed adjacent to neighbouring properties.
[DUR0805]
62. The use of vibratory compaction equipment (other than hand held devices) within 100m of any dwelling house is strictly prohibited.
[DUR0815]
63. Provision to be made for the designation of one (1) durable and pervious car wash-down area. The area must be identified for that specific purpose and be supplied with an adequate water supply for use within the area. Any surface run-off from the area must not discharge directly to the stormwater system.
[DUR0975]
64. The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.
[DUR2185]
65. A garbage storage area shall be provided in accordance with Council's "Code for Storage and Disposal of Garbage and Other Solid Waste".
[DUR2195]
66. Appropriate arrangements to the satisfaction of Council's General Manager or his delegate shall be provided for the storage and removal of garbage and other waste materials. A screened, graded and drained garbage storage area shall be provided within the boundary.
[DUR2205]

67. Appropriate measures are to be put in place during the construction period to prevent the transport of sediment from the site. Should any material be transported onto the road or any spills occur it is to be cleaned up prior to cessation of same days work and/or commencement of any rain event.
[DUR2405]
68. Vehicles leaving the premises shall be sufficiently free from dirt, aggregate or other materials such that materials are not transported onto public roads.
[DUR2415]
69. The burning off of tress, associated vegetation felled by clearing operations, and builder's waste is prohibited.
[DURNS04]
70. All proposed works to be undertaken are to be carried out in accordance with the conditions of development consent, approved construction certificate, drawings and specifications.
[DUR0005]
71. All reasonable steps shall be taken to muffle and acoustically baffle all plant and equipment. In the event of complaints from the neighbours, which Council deem to be reasonable, the noise from the construction site is not to exceed the following:
- A. Short Term Period - 4 weeks.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 20dB(A) at the boundary of the nearest likely affected residence.
 - B. Long term period - the duration.
L10 noise level measured over a period of not less than 15 minutes when the construction site is in operation, must not exceed the background level by more than 15dB(A) at the boundary of the nearest affected residence.
[DUR0215]
72. Proposed earthworks shall be carried out in accordance with AS 3798, "Guidelines on Earthworks for Commercial and Residential Developments".
[DUR0785]
73. All fill is to be graded at a minimum of 1% so that it drains to the street or other approved permanent drainage system and where necessary, perimeter drainage is to be provided to ensure minimal impact on adjoining properties.
[DUR0865]

74. No soil, sand, gravel, clay or other material shall be disposed of off the site without the prior written approval of Tweed Shire Council.

[DUR0985]

75. The surrounding road carriageways are to be kept clean of any material carried onto the roadway by construction vehicles. Any work carried out by Council to remove material from the roadway will be at the Developers expense and any such costs are payable prior to the issue of a Subdivision Certificate/Occupation Certificate.

[DUR0995]

76. Tweed Shire Council shall be given a minimum 24 hours notice to carry out the following compulsory inspections in accordance with Appendix D, DCP16 - Subdivisions Manual based on the rates contained in Council's current Fees and Charges:-

Roadworks

- (a) Pre-construction commencement erosion and sedimentation control measures
- (b) Completion of earthworks
- (c) Excavation of subgrade
- (d) Pavement - sub-base
- (e) Pavement - pre kerb
- (f) Pavement - pre seal
- (g) Pathways, footways, bikeways - formwork/reinforcement
- (h) Final inspections - on maintenance
- (i) Off Maintenance inspection

Council's role is limited to the above mandatory inspections and does **NOT** include supervision of the works, which is the responsibility of the Developers Supervising Consulting Engineer.

The EP&A Act, 1979 (as amended) makes no provision for works under the Water Management Act 2000 to be certified by an "accredited certifier".

[DUR1895]

77. Regular inspections shall be carried out by the Supervising Engineer on site to ensure that adequate erosion control measures are in place and in good condition both during and after construction.

Additional inspections are also required by the Supervising Engineer after each storm event to assess the adequacy of the erosion control measures, make good any erosion control devices and clean up any sediment that has left the site or is deposited on public land or in waterways.

This inspection program is to be maintained until the maintenance bond is released or until Council is satisfied that the site is fully rehabilitated.

[DUR2375]

78. During construction, a "satisfactory inspection report" is required to be issued by Council for all s68h2 permanent stormwater quality control devices, prior to backfilling. The proponent shall liaise with Councils Engineering and Operations Division to arrange a suitable inspection.

[DUR2445]

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

79. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units).

[POC0205]

80. The building is not to be occupied or a final occupation certificate issued until a fire safety certificate has been issued for the building to the effect that each required essential fire safety measure has been designed and installed in accordance with the relevant standards.

[POC0225]

81. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works.

[POC1045]

82. Prior to the issue of a final occupation certificate, all conditions of consent are to be met.

[POC1055]

83. All car parking spaces (including tandem car parks) are to be identified with unit numbers and for visitor parking prior to the issue of an Occupation Certificate.

[POCNS01]

84. Prior to issue of an occupation certificate, all works/actions/inspections etc required at that stage by other conditions or approved management plans or the like shall be completed in accordance with those conditions or plans.

[POC0005]

85. Prior to the issue of an occupation certificate, the applicant shall produce a copy of the "satisfactory inspection report" issued by Council for all s68h2 permanent stormwater quality control devices.

[POC0985]

86. All externally mounted artificial lighting, including security lighting, is to be shielded to the satisfaction of the General Manager or his delegate where necessary or required so as to prevent the spill of light creating a nuisance to neighbouring or adjacent premises.

[USE0225]

REPORT:

Applicant: Imago Dei Enterprises Pty Ltd
Owner: Imago Dei Enterprises Pty Ltd
Location: Lot 1 DP 780223 No. 5 Peninsula Street, Hastings Point
Zoning: 2(b) Medium Density Residential
Cost: \$600,000

BACKGROUND:

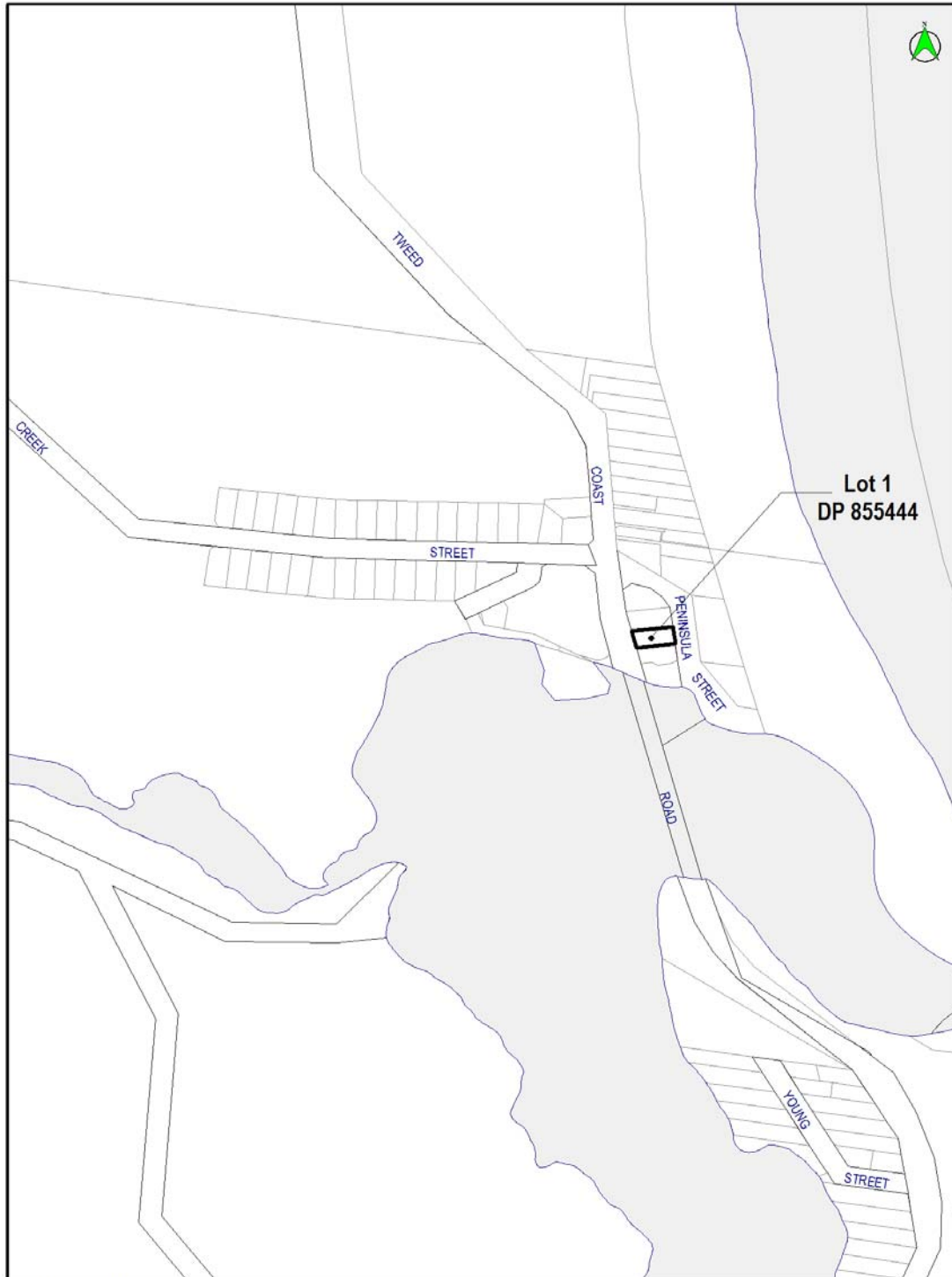
Council has received a Development Application for the demolition of existing dwelling house and construction of multi dwelling housing in two (2) storeys comprising six (6) units and car parking for ten (10) vehicles at Lot 1 DP 780223, No. 5 Peninsula Street Hastings Point.

The two-storey multi dwelling housing development comprises of five x three bedroom dwellings and a one x two bedroom dwelling. The basement comprises of carparking for 10 vehicles, plus a car wash bay/disabled space. The application also includes the demolition of an existing house and garage. The site has a rectangular shaped allotment with an area of 612 square metres. Frontage to Peninsula Street is 16.7 metres and frontage to Tweed Coast Road is 16.9 metres. The subject site is bound to the north by a multi-dwelling villa development and a two storey dwelling to the south.

Ground levels for the site range from RL 1.8m AHD to RL 2.95 AHD with the site grading towards Tweed Coast Road. Earthworks for the site include filling of the site to a minimum level of RL 2.4m AHD and the excavation of a basement carpark to a level of RL 0.5 AHD.

During the advertising period 5 submissions were received and are addressed later in this report. Despite the submissions received, the objectives of DCP 6 are considered to be met and the application is recommended for approval having regard to the medium-density land-use controls in the area.

SITE DIAGRAM:



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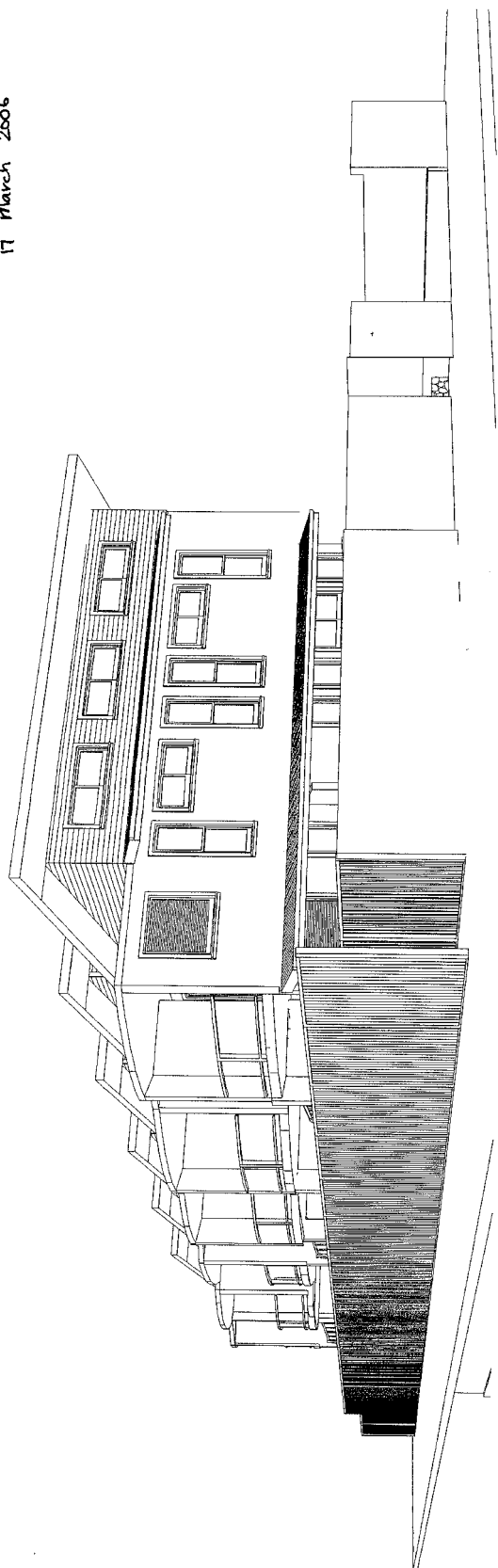
Tweed Shire Council
 Lot 1 DP 780223,
 No. 5 Peninsula Street Hastings Point
 File: N:\Mapinfo 7...A4P Site Plan.Wor Author: J.Batchelor Date: 27/June/2006

STRATEGIC PLANNING UNIT

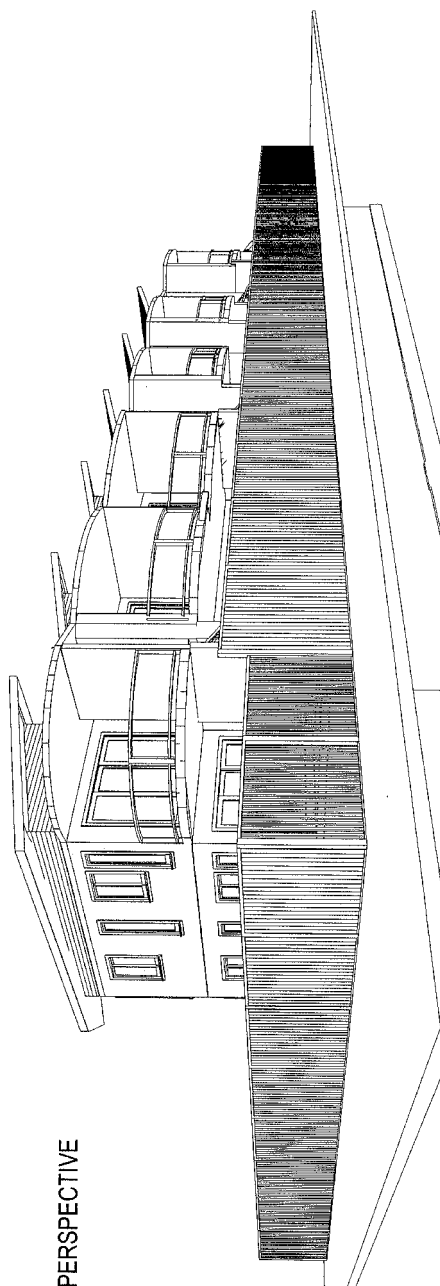
Site Plan
 Scale: 1:5,000 Sheet: 1 of 1

DEVELOPMENT PLANS

Sheet 1 of 9
17 March 2006



SOUTHEAST PENINSULA ST PERSPECTIVE
VIEW

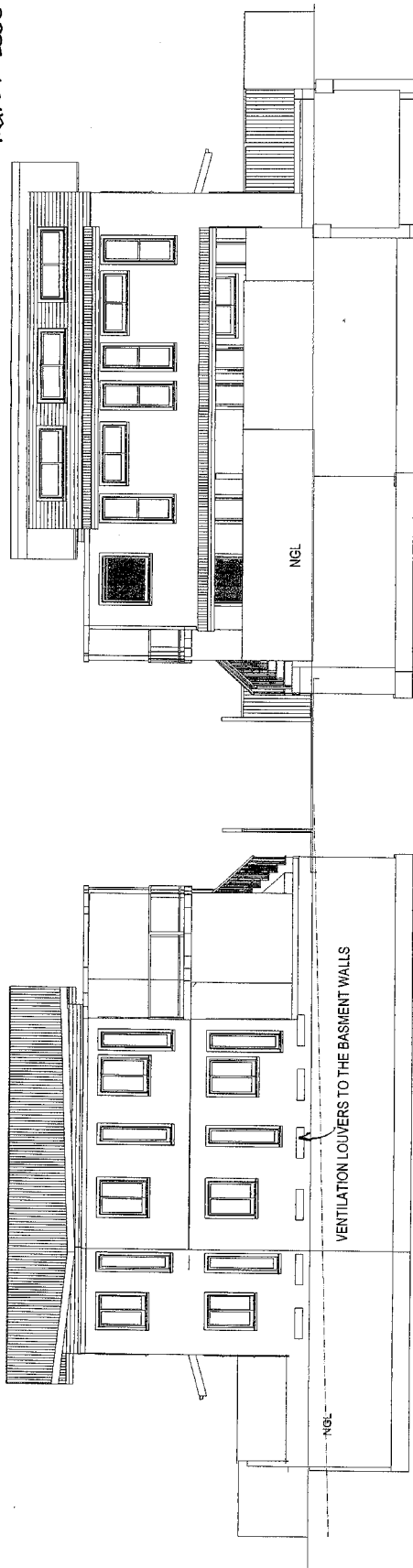


SOUTHWEST COAST RD PERSPECTIVE VIEW

PROPOSED DEVELOPMENT
PLANS FOR 5 PENINSULA ST
HASTINGS POINT

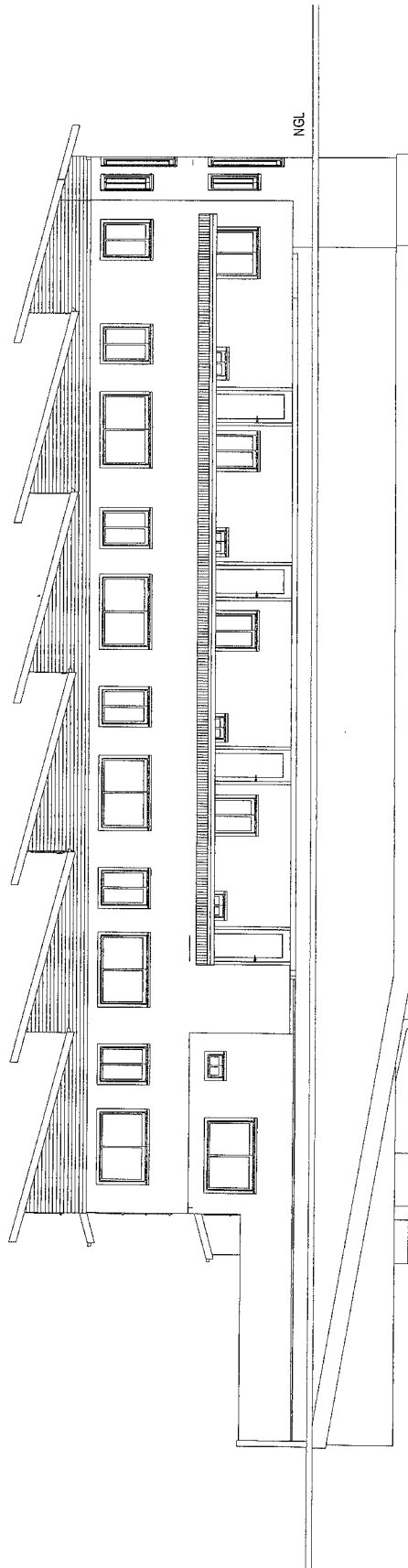
TURNERS DESIGN CONSTRUCTION CONSULTANTS BUILDING DESIGNER
CHRIS TURNER PO BOX 411 MT. GRAVATT QLD 4122 PH 0413155661

Sheet 5 of 9
17 March 2006



EAST ELEVATION

WEST ELEVATION

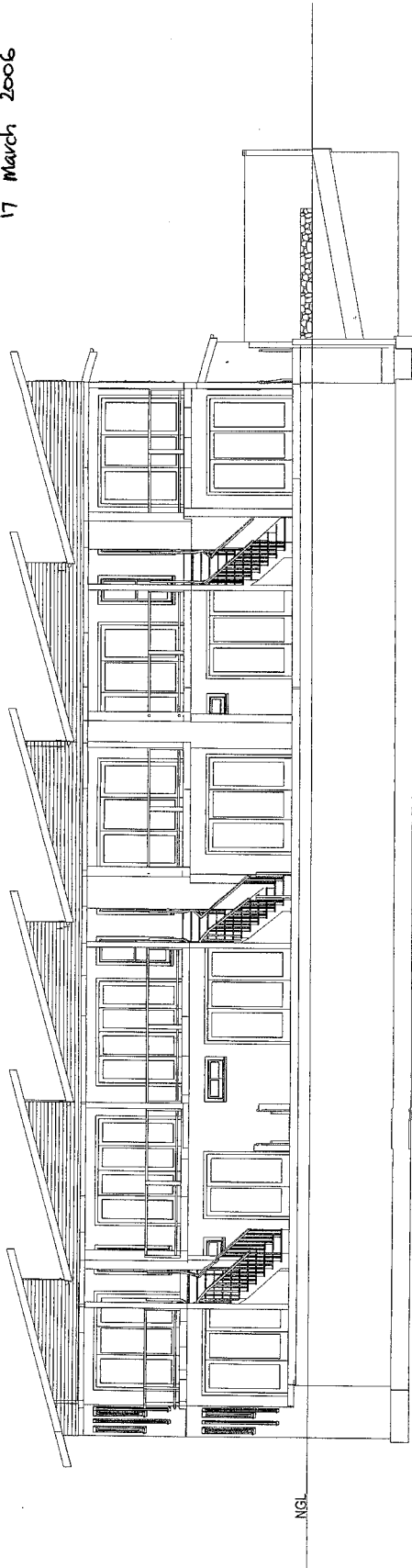


NORTH ELEVATION

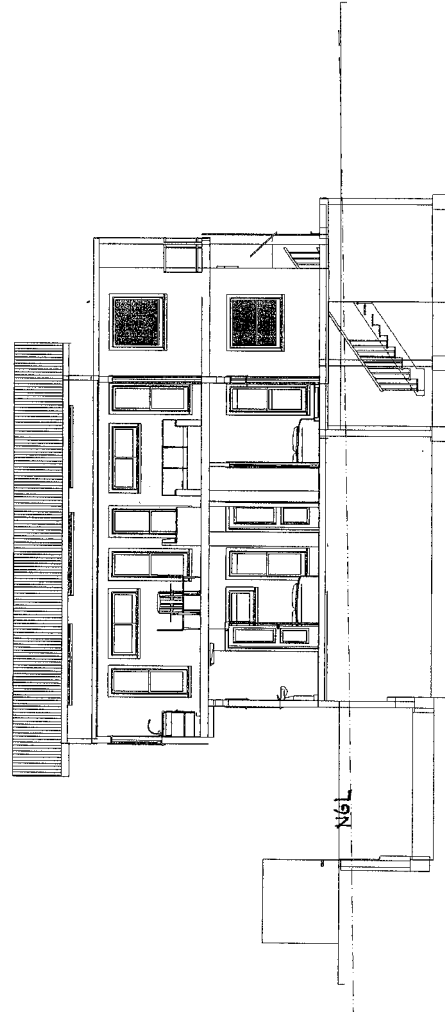
PROPOSED DEVELOPMENT
PLANS FOR 5 PENINSULA ST
HASTINGS POINT

TURNERS DESIGN CONSTRUCTION CONSULTANTS BUILDING DESIGNER
CHRIS TURNER PO BOX 411 MT. GRAVATT QLD 4122 PH 0413456681

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SOUTH ELEVATION

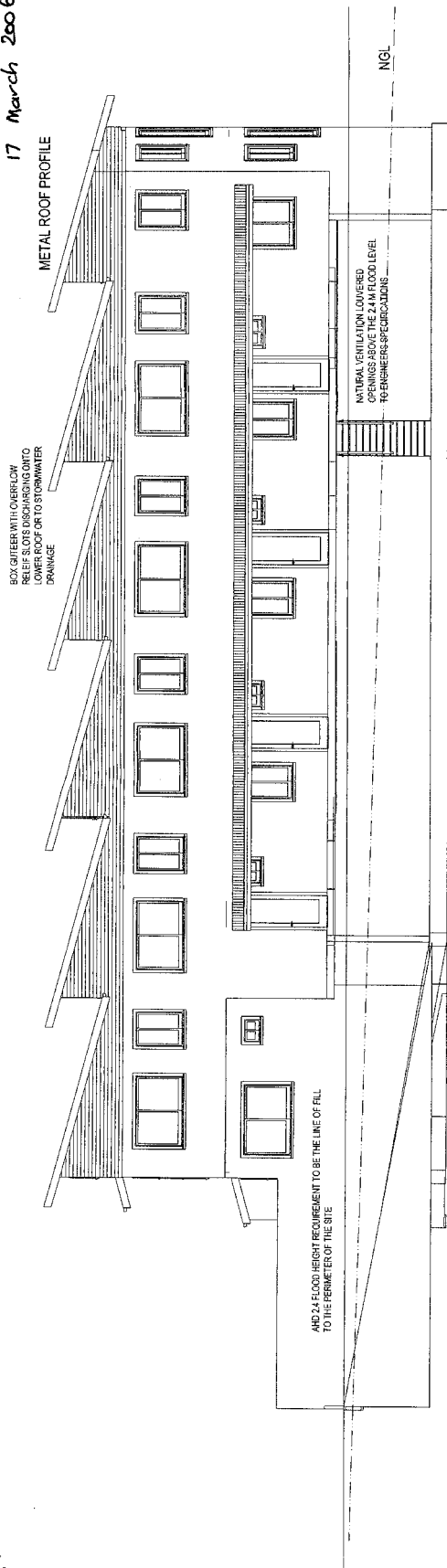


SHORT SECTION THROUGH BUILDING

PROPOSED DEVELOPMENT
PLANS FOR 5 PENINSULA ST
HASTINGS POINT

TURNERS DESIGN CONSTRUCTION CONSULTANTS BUILDING DESIGNER
CHRIS TURNER PO BOX 411 MT.GRAVATT QLD 4122 PH 0413155661

Sheet 9 of 9
17 March 2006



SECTION THROUGH THE BASEMENT ENTRANCE



OVERALL VIEW OF UNIT COMPLEX FROM SOUTHEAST VIEW

PROPOSED DEVELOPMENT
PLANS FOR 5 PENINSULA ST
HASTINGS POINT

TURNERS DESIGN CONSTRUCTION CONSULTANTS BUILDING DESIGNER
CHRIS TURNER PO BOX 411 MT.GRAVATT QLD 4122 PH 0413156661

CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000

The subject land is zoned 2(b) Medium Density Residential pursuant to the provisions of Tweed LEP 2000.

The objectives of the 2(b) zone state:-

Primary objective

to provide for and encourage development for the purpose of medium density housing (and high density housing in proximity to the Tweed Heads sub-regional centre) that achieves good urban design outcomes.

Secondary objectives

- *To allow for non-residential development which supports the residential use of the locality.*
- *To allow for tourist accommodation that is compatible with the character of the surrounding locality.*
- *To discourage the under-utilisation of land for residential purposes, particularly close to the Tweed Heads sub-regional centre.*

The proposed development is considered to have been designed in accord with best practice urban design principles. The development is architecturally modern and will positively contribute to the emerging character of the locality.

The proposed density of the development is considered an appropriate response to the site characteristics, its context, and is considered to be an orderly and economic use of the land.

The proposed development is considered to be consistent with the 2(b) Residential Zone objectives.

Clause 15 - Availability of Essential Services

The subject site is adequately serviced by way of existing stormwater, electricity, sewer and water connections. The proposal is considered to be consistent with the relevant provisions of Clause 15 of TLEP 2000.

The applicant has addressed stormwater management. Council's Infrastructure Engineer's raises no objection to the proposal.

Clause 16 – Height of Buildings

Clause 16 of the TLEP requires Council to ensure that the height and scale of development is appropriate to the site and the surrounding built and natural environment. The subject land has a height limitation of 3 stories with the proposal comprising of 2 stories as defined within the Tweed LEP 2000. The proposal therefore complies with the provision of clause 16.

Clause 35 - Acid Sulfate Soils

Pursuant to the provisions of Clause 35 of TLEP 2000, the subject site is identified as being located within Class 3 & 4. An Acid Sulfate Soils management plan has been submitted and assessed by Council's Environment and Health Services Unit, who raise no objection.

Clause 39 - Remediation of Contaminated Land

A preliminary assessment of contamination has been submitted that identifies the presence of no contaminants. There are no previous land use activities known to have occurred that may give rise to land contamination. Council's Environment and Health Services Unit has assessed the development application material and raises no issues in relation to land contamination.

State Environmental Planning Policy No.65 – Design Quality of Residential Flat Design

The development has been assessed against the ten design quality principles provided at Part 2 of the Policy as satisfactory.

State Environmental Planning Policy (SEPP) 71 – Residential Development

Pursuant to the provision of the Policy the application was referred to the Department of Planning on 25 October 2005. The Department subsequently advised of there being no need for involvement by the Director General. The proposal has been assessed having regard to clause 8 of the Policy. In this regard the proposal is considered satisfactory with respect to attaining the clause 8 matters.

North Coast Regional Environmental Plan 1988

The proposed development is not in contravention of any of the North Coast Regional Environmental Plan 1988 provisions and is considered satisfactory.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

There are no draft environmental planning instruments known to exist that would have any bearing on neither the assessment nor determination of the proposal.

(a) (iii) **Development Control Plans (DCP's)**

Development Control Plan No. 2 – Access and Parking Code

The basement carparking plans provided with the request for further information dated 20 December 2005 provides 4 carparking spaces in tandem, 2 single spaces and a disabled car space. DCP 2 – Site access and carparking code states the following in relation to carparking and tandem spaces: -

- *1.5 carparks per multi dwelling unit, with 25% required for visitors. Therefore the basement carpark complies with number of carparks required under DCP2.*
- *Proposals where multiple occupancies are involved will be considered on their merits.'*

The basement carpark has proposed 11 carparks and is therefore compliant with DCP 2, although the proposed parking with 4 tandem spaces is not ideal. Due to the fact 4 of the carparks are tandem and to avoid parking problems for future tenants, the parking spaces are to be marked with the unit numbers. Four of the units will therefore have visitor / tandem carparks.

Development Control Plan No. 6 – Multi Dwelling Housing

The following table assesses the proposed development in relation to the provisions of DCP No 6:

Standard	Requirement	Proposal	Complies
Floor Space Ratio	0.5:1 (498.95m ²)	0.59:1	#NO
Minimum Landscaped Area	30% site area (183.6m ²)	59% site area (Approx 364m ²)	YES
Setbacks from street boundary	Tweed Coast Road 3m Peninsula Street 6m North Boundary 3m South Boundary 3m	Tweed Coast Road 3m Peninsula Street 6m North Boundary 3m South Boundary 5m	YES
Setbacks	900mm in accordance with BCA	Setbacks Complies	YES
Streetscape	The maximum width of the garages should be 50% of the frontage width.	The garages do not address Peninsula Street	YES
Streetscape	Garages should be setback behind the front façade of the building.	Garages not seen to dominate the streetscape	YES
Building Envelope	45° from 3.5m high at the side and rear boundary (excluding eaves and the like)	Within prescribed building envelope. Only slight encroachments by eaves and balcony covers.	YES
Minimum Private Open Space	20% of site area (122.4m ² in total) with minimum dimension of 3m	Amply private open space is available to all units. Each unit will have access to a balcony of approximately 12metres squared off the living room together with generous courtyards at ground level.	YES
	One part min 25m ² with min dimension of 4m	>25m ² & min. dimension of 4m	YES

#NO Having regard to the performance criteria contained within Development Control Plan No. 6 it is concluded that the FSR is considered satisfactory and in accordance with the medium density objectives of the zone.

The proposal is considered largely consistent with the existing and desired streetscape of the area. The development involves a two-storey height, consistent with both the height provisions of the land, the aims of the medium density zone and adjoining properties, and use of building design, roof form and materials that compliment adjoining parcels and positively contributes to the Peninsula Street Streetscape.

Development Control Plan No.39 – Energy Efficient Housing

The applicant has submitted an ABSA Certificate for each of the proposed units that outlines compliance with the requirements of DCP 39 as follows:

Standard	Requirement	Proposal	Complies
Unit Energy Rating	3.5 stars minimum	Unit 1: 3.5 Stars, Unit 2: 5 Stars, Unit 3: 5 Stars, Unit 4: 5 Stars, Unit 5: 5 Stars, Unit 6: 3.5 Stars	YES

The Development Application was submitted to Council prior to the new BASIX requirements coming into force before 1 October 2005 and as such no BASIX certificates were required to be submitted to Council for assessment.

Development Control Plan No. 42 – Notification

The Development Application was notified for a period of fourteen (14) days between Wednesday 19 October 2005 and Wednesday 2 November 2005. During this period five (5) written submissions were received which have been considered further in this report.

Development Control Plan No. 48 – Tweed Coast Building Heights

Development Control Plan 48 prescribes, as an overarching objective for building height that, new development should minimise the visual and physical impact and apparent bulk that it has on adjoining development and public streets and spaces. In addition, new development should also equitably share identified important view corridors and provide a positive contribution to the streetscape.

Within the Building Height component of DCP 48, an acceptable solution is offered for 2 storey residential development, prescribing that should the building be a maximum height of 8 metres to it's highest point (ridge point of the roof) that the proposal will met the objectives established. The DCP also details a height to the top plate of the building, however, in this instance it is the buildings height and bulk that is in question and accordingly the top plate provision is considered largely irrelevant in this instance.

The following table is a checklist demonstrating that the proposed development complies with the provisions of DCP No 48.

Element	DCP Planning Control	Proposed Development	Compliance
Building Height	<p>Finished Ground Level to uppermost ceiling or top plate of the highest external wall:</p> <p>2 Storey Residential – 6.0m</p> <p>Finished Ground Level to the highest point on the ridge of the roof:</p> <p>2 Storey Residential – 8.0m</p>	<p>5.8m</p> <p>6.5m</p>	Yes
Building Setbacks	<p>In Residential Zones</p> <p>Front – 6m</p> <p>Secondary Frontage – 3m</p> <p>Side and Rear</p> <p>- 900mm Wall</p> <p>- 675mm OMP</p>	All setbacks fully compliant	Yes

Roof Design	<ul style="list-style-type: none"> • Articulate roof structure/ensures that continuos, unbroken roof or eaves lines of more than 10 metres are avoided. • Non-reflective materials. • Screen ancillary structures and/or activity areas having potential impact from view or the sightlines of neighbouring properties and public spaces. • Avoid the addition of pergolas or other covered structures unless that part of the development is in accordance with Clause 16 of the Tweed LEP 2000. • An area of roof with appropriate orientation and pitch suitable for the installation of energy saving devices like solar collectors. • Eaves/pergolas and/or awnings designed to admit winter sun but exclude summer sun from main living areas. 	Proposed plans are in accordance with the roof design element.	Yes
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Development Control Plan No. 51 – Tweed Coast Strategy

The proposed development has been assessed against Development Control Plan No 51 and it is considered satisfactory.

(a) (iv) Any Matters Prescribed by the Regulations

Satisfactory.

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

Having regard to the issues raised in this report it is concluded that the proposed development will not have a significant impact upon the natural and built environment, socially or economically in the locality. The proposal is considered likely to have a small positive impact upon the above matters through the cumulative external impacts associated with the areas progressive gentrification to which the proposed development will contribute.

Engineering Considerations

1.0 Geotechnical / Earthworks

A geotechnical report prepared by Border Tech and dated 7 March 2006 provides the following comments and recommendations;

- Bulk excavation up to 2 metres is required for the basement
- Groundwater was intercepted at 1.4m below the surface
- Dewatering is required to allow construction
- Dewatering may include settlements in loose sands possibly causing distress to surrounding structures.
- Roof water and domestic drainage is to be discharged away from the structure

A dewatering report prepared by Precise Environmental Pty Ltd provides the following comments;

- Odour may occur as a result of dewatering
- If the groundwater does not meet the minimum standards for water quality, then a groundwater containment area will need to be established on site to treat the dewatered groundwater prior to release.

2.0 Roads

2.1 Access

Access to the development is from Peninsula Street. Peninsula Street is a local urban two way street, with no kerb & gutter along the frontage of the site. The applicant will be required to construct upright kerb and gutter along the full frontage of the site and will also have to provide road widening to accommodate the kerb & gutter.

2.2 Road Network / Intersections

Council's Traffic & Transport Engineer Paul Morgan requested the applicant address the capacity of the existing intersection and ability to accommodate traffic generated by the development.

It is also noted that a number of objections in relation to traffic have been received. A traffic report prepared by Skildtraffic and dated 20 February 2006 provides the following advice;

“An analysis of the intersection of Tweed Coast Road and Peninsula Street indicates that additional traffic flows due to the proposed development will have no appreciable effect on the operational performance of the intersection.”

2.3 Access

The basement carpark is assessed via Peninsula Street.

2.4 Footpaths/Cycleway

No footpath exists in front of the subject property. The applicant will be required to construct a 1.2m concrete footpath.

3.0 Stormwater Drainage

The site grades towards Tweed Coast Road, overland stormwater is directed to an adjacent table drain and also piped. The subject site accepts no major stormwater flows from neighbouring properties.

The development will significantly increase the previous area of the site, with large roof areas, concrete driveways and paved landscaping, increasing runoff volumes and potential pollutant loadings.

The applicant proposes to separate pipe drainage systems to cater for roof and road/carpark runoff. The roof system does not require quality treatment and is to be discharged into the existing table drain along Tweed Coast Road, being a legal point of discharge. The table drain has adequate capacity, which slopes towards north and crosses Tweed Coast Road by means of piped culvert and slopes towards south along the road and then discharged into Cudgera Creek.

Runoff from the basement carpark and driveway must be treated to remove pollutants prior to discharge to the public realm. The applicant will install an oil-grit separator sized according to Council specifications. The applicant sizing of this device is acceptable but needs to specify the type and capacity of the proprietary device, at the construction certificate stage.

The proposed carwash bay in the basement level must be bunded to prevent contamination of basement runoff. The collected water must be treated prior to discharge to sewer as trade waste. Runoff from minor impervious surfaces such as paving should be directed to pervious landscaped areas throughout the site.

The proposed drainage system for the occupational phase of the development is considered to be satisfactory.

4.0 Services/Utilities

4.1 Water Supply / Sewer

Reticulated water and sewer is required to be connected to the proposed development.

4.2 Electricity / Telecommunication

Electricity and Telecommunication services are required to be connected to the proposed development.

4.3 Waste (garbage) service

A waste bin storage area has been identified at the northeast corner of the site. This will store wheelie bins and is considered satisfactory.

5.0 Environment/Amenity

5.1 Noise Impact Assessment

No noise impact assessment has been lodged with the application. Noise impact is not considered an issue for the development.

5.2 Sediment control

Standard sediment & erosion control measures will apply to the development.

6.0 Natural Hazards

6.1 Flooding

The subject land is flood liable with natural ground levels varying between RL 1.84-2.95m AHD. Development Control Plan No. 5 – Development of Flood Liable Land specifies a design flood level of RL 2.4m AHD with a minimum habitable floor area of RL 2.7m AHD. The basement carpark is to be protected to a level of 500mm above the design flood level.

The applicant proposes to fill the site to RL 2.40m AHD with a habitable floor level of RL 2.7 AHD. A driveway bund is proposed at RL 2.90m AHD and any proposed open vents below this level will require protection.

(c) Suitability of the site for the development

The subject site has a land area of 612m² and is of regular shape. The land is slightly sloping, from a high of RL 1.8m AHD metres to RL 2.95 m AHD with the site grading towards Tweed Coast Road. There are no existing title restrictions as listed within Council's GIS System affecting the property.

Surrounding development is predominately in a medium density form, however a single dwelling house is located immediately to the south of the subject land.

In consideration of the limited site constraints, existing uses within the vicinity, the proposal is not considered to adversely affect or create any additional hazards and is considered a suitable use in relation to the subject land.

(d) Any submissions made in accordance with the Act or Regulations

The Development Application was notified for a period of fourteen (14) days between Wednesday 19 October 2005 and Wednesday 2 November 2005. During the notification period Council received a total of five (5) submissions. The submissions and the issues have been summarised below:

Issue	Impact	Comment
Increased traffic flows on Tweed Coast Road and resulting increases in pollution.	The proposed development will generate an estimated additional 20 vehicle trips per day. The Tweed Coast Road is a two lane, distributor road and it is submitted that the capacity of the road is adequate to accommodate the additional traffic generated by the proposed development.	Refusal of the Development Application on this matter is not considered warranted.

Issue	Impact	Comment
<p>Increased traffic on Peninsula Street will result in loss of amenity within an adjoining owner's bedroom by way of noise</p>	<p>Peninsula Street is a cul-de-sac and therefore there is no through traffic. Traffic speeds are relatively low and the geometric capacity of the street is adequate to accommodate the additional 20 vehicle trips per day. The subject land is also within a 2(b) Medium Density Residential Zone, as is the Peninsula Drive precinct generally and therefore inevitably implementation of the 2(b) zoning in accordance with the zone objectives will result in some loss of amenity in the neighbourhood.</p>	<p>Refusal of the Development Application on this matter is not considered warranted.</p>
<p>Increase traffic by workmen</p>	<p>This is a modest scale of development comprising six two storey units which is entirely consistent with the 2(b) zoning and whilst the construction period will be kept to an absolute minimum, the time involved will depend on market considerations and other factors. Normal impact mitigation measures relating to hours of work, noise levels, induction of employees, etc. will be implemented to assist in mitigating perceived potential impacts.</p>	<p>Refusal of the Development Application on this matter is not considered warranted.</p>

Issue	Impact	Comment
<p>The erection of traffic lights at the junction of Peninsula Street and the Tweed Coast Road would be unacceptable and there is insufficient room for a roundabout or chicane to be constructed.</p>	<p>Having regard to the additional traffic generated by the development (approximately 20 vehicle trips per day) it is submitted that the existing intersection is adequate, particularly as the land was zoned 2(b) Medium Density in 1988 and the proposed development is entirely consistent with that zoning.</p>	<p>Refusal of the Development Application on this matter is not considered warranted.</p>
<p>Potential undermining of surrounding buildings.</p>	<p>Construction techniques employed will ensure the protection of all adjacent and adjoining properties in accordance with normal construction practice.</p>	<p>Refusal of the Development Application on this matter is not considered warranted.</p>
<p>Pollution including noise and dust.</p>	<p>As indicated in respect of other issues, the construction period will be kept to a minimum and normal impact mitigation measures will be employed to ensure that impacts on the amenity of existing residents are mitigated as far as reasonably possible.</p>	<p>Refusal of the Development Application on this matter is not considered warranted.</p>
<p>Pollution of Cudgera Creek</p>	<p>The subject land does not have a riparian frontage to Cudgera Creek and as indicated in the Statement of Environmental Effects all normal stormwater quality control measures will be implemented both during the construction and operational phases.</p>	<p>Refusal of the Development Application on this matter is not considered warranted.</p>

Issue	Impact	Comment
<p>The adjoining owner to the south has raised issues in relation to noise from holidaymakers and the density factor and number of units allowed on this very small residential street.</p>	<p>The development proposal is in respect of multi-dwelling housing not tourist accommodation.</p>	<p>Refusal of the Development Application on this matter is not considered warranted.</p>
<p>The adjoining owners to the south have also raised concerns in relation to privacy, as all units' balconies will be facing the south and overlooking their yard.</p>	<p>The objector's property also has a balcony on its southern wall to obtain optimal views of the Cudgera Creek waterway to the south. The objector's dwelling where it abuts the development site contains bedrooms, bathrooms, etc. and other non-living areas and there is no pool in the rear yard. Impacts on privacy and amenity are therefore expected to be minimal, however as a further impact mitigation measure, in addition to the fact that the objector's dwelling is located 4.5 metres from the boundary (2m to the decks), the applicant is prepared to accept a condition requiring the balcony balustrades to be constructed of opaque glass.</p>	<p>Refusal of the Development Application on this matter is not considered warranted.</p>

Issue	Impact	Comment
The adjoining owner to the south has also raised concerns in relation to parking and congestion on Peninsula Street.	The development proposal provides for ten off street car parking spaces which is one in excess of Council's normal Development Control Plan No. 2 Car Parking Code requirements and it is therefore submitted that the proposal will not contribute to congestion on the public road network in terms of car parking.	Refusal of the Development Application on this matter is not considered warranted.

The mitigation and management measures of potential adverse impacts arising from the proposed development are also summarised below:

- Design of the buildings to reflect contemporary standards and guidelines including the Coastal Design Guidelines for NSW – (Coastal Council of NSW, 2003).
- Preparation of appropriate management plans to ensure that the proposed development during both the construction phase and subsequently is appropriately managed and monitored to achieve desired environmental outcomes.
- Substantial compliance with Council's codes, Development Control Plans and relevant environmental planning instruments.
- Provision of on site car parking in accordance with Development Control Plan No. 2.
- Provision of appropriate landscaping to soften visual impacts, reduce run-off and improve the aesthetics of the public domain.
- Limiting the building height to two storeys.
- Implementation of all recommendations of consultant reports and management plans.
- Provision of all normal urban infrastructures.
- Provision of design elements to reduce impacts associated with potential overshadowing, privacy and amenity of adjacent properties.
- Limiting work hours during the construction phase in accordance with normal Council standards.

(e) Public interest

Although the proposal received several submissions from local residents during the two-week notification period, the proposed development is not considered to undermine the general public interest in the locality, and is considered to have a wider public interest by providing a variety of housing options in the locality. As such the proposal is recommended for conditional approval.

OPTIONS:

1. Approve the application subject to appropriate conditions.
2. Refuse the application with appropriate reasons for refusal.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Should Council Resolve to approve the application in line with Option No.1 there will be no direct impact upon Council's budget or forward estimates. Should Council resolve not to approve the application legal costs will be incurred should the applicant appeal the decision in the NSW Land and Environment Court.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

The Statement of Environmental Effects identifies potential adverse impacts, assesses their magnitude and significance and proposes measures to mitigate and manage those impacts such that the ultimate development is sustainable viable. The proposed development has been identified to provide a positive urban design outcome, which gives effect to the desired medium-density character of the immediately surrounding area in accordance with the 2(b) Zone Objectives.

The proposal has been thoroughly investigated and is considered to be suitable to the site, is unlikely to cause any significant negative impacts to the surrounding built and natural environment and meets all of Council's applicable requirements within the Tweed Local Environmental Plan 2000 and relevant Development Control Plans. Council's technical officers, subject to the attached conditions of development consent, have raised no objections to the proposed development. The proposal is therefore considered to warrant conditional approval.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

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P9 [PD-PC] Development Application DA06/0417 for a Two Lot Subdivision at Lot 11 DP 805087, No. 507 Eviron Road Eviron - Class 1 Appeal

ORIGIN:

Development Assessment

FILE NO: DA06/0417 Pt1

SUMMARY OF REPORT:

At it's meeting of Tuesday, 23 May 2006, Council considered an application for a two-lot subdivision at Lot 11 DP 805087, No. 507 Eviron Road Eviron. The application exhibited non-compliances with Clause 11 and 20 of the Tweed LEP 2000 and in accordance with the recommendation, was refused.

Council is in receipt of a Class 1 Application with the NSW Land and Environment Court (Court file number 10484 of 2006) appealing the decision of Council. It is recommended that Council instruct its Solicitors to defend the Class 1 Appeal.

RECOMMENDATION:

That Council instructs its Solicitors to defend the Class 1 appeal lodged with the NSW Land and Environment Court as it relates to Development Application DA06/0417.

REPORT:

Applicant: M GL Partridge
Owner: Mr GL Partridge & Mrs IJ Partridge
Location: Lot 11 DP 805087 No. 507 Eviron Road, Eviron
Zoning: 1(a) Rural
Cost: Nil

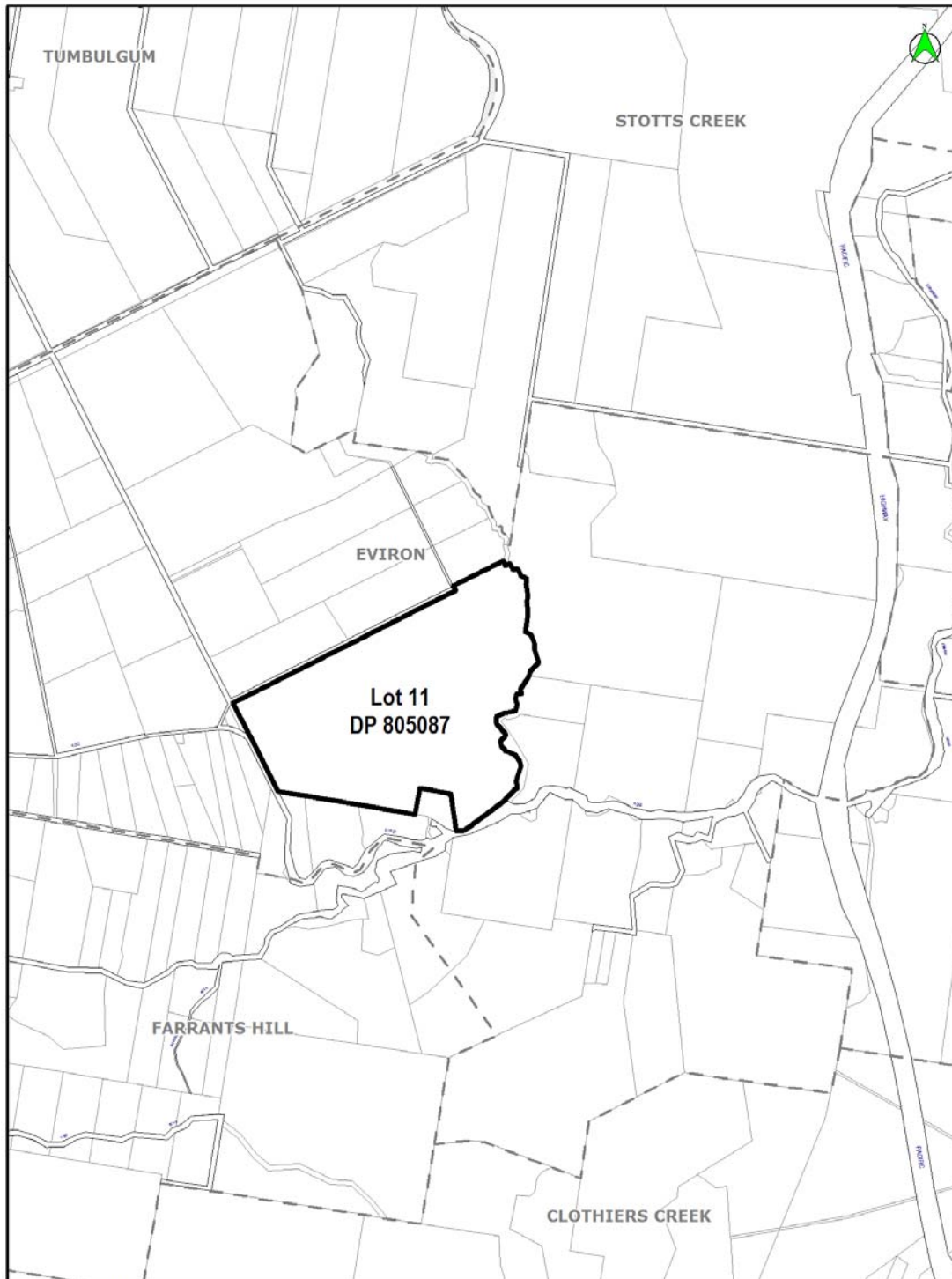
BACKGROUND:

At its meeting of Tuesday, 23 May 2006, Council considered an application for a two-lot subdivision at Lot 11 DP 805087, No. 507 Eviron Road Eviron. The proposal sought to subdivide a 77.72 hectare parcel, containing part 1(a) Rural, part 1(b2) Agricultural Protection zonings, into two allotments, being 37.7ha and 40ha in size.

The proposed subdivision layout exhibited non-compliances with Clause 11 and 20 of the Tweed LEP 2000 as they relate to minimum lot sizes within the 1(a) and 1(b2) zones and in accordance with the recommendation, the application was refused.

Council is now in receipt of a Class 1 Application with the NSW Land and Environment Court (Court file number 10484 of 2006) appealing the decision of Council. The Development Assessment Unit maintains its stance on the application and accordingly recommends that Council instruct its Solicitors to defend the Class 1 Application lodged.

SITE DIAGRAM:



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 P.O. Box 816
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Tweed Shire Council
 Lot 11 DP 805087
 No. 507 Eviron Road, Eviron

 TWEED SHIRE COUNCIL	STRATEGIC PLANNING UNIT
	Site Plan
File: N:\Mapinfo 7...A4P Site Plan.Wor	Author: J.Batchelor
Date: 15/May/2006	Scale: 1:20,000
Sheet: 1 of 1	

OPTIONS:

1. Advise Council's solicitors to defend the Class 1 Application lodged with the NSW Land and Environment Court, as per the recommendation

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Defending the appeal in the NSW Land and Environment Court will incur legal costs

POLICY IMPLICATIONS:

Nil

CONCLUSION:

The Development Assessment Unit maintains its view that in the absence of a conforming development proposal the application can only warrant a refusal determination and accordingly concludes that the Class 1 application lodged should be defended.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

P10 [PD-PC] Cabarita Locality Plan

ORIGIN:

Strategic Town Planning

SUMMARY OF REPORT:

The Cabarita Locality Plan is being progressed by the Cabarita Steering Committee and the consultants engaged by Council, City Plan Services. The project has reached a stage where they are to commence consideration of options for master planning of the Pandanus Parade Precinct. It has become apparent that for the Committee to undertake this effectively it may need to expand the master plan study area to encapsulate the entire Cabarita Business precinct rather than just focusing on the Pandanus Parade Precinct. Considerations such as streetscape, traffic and transport, urban design, commercial/retail issues etc need to be reviewed in a holistic manner rather than in isolation.

The Committee requested City Plan Services to provide a costing to expand the scope of the project so that the master planning component covers the entire business precinct. Attached is a scope of the additional works and associated costs compiled by City Plan Services.

It is recommended the current scope of works does not need to be expanded to enable Council to meet the original intent of the project, deciding what should occur with the Pandanus Parade Precinct, hence the additional scope of works is not supported.

RECOMMENDATION:

That Council advises the Cabarita Steering Committee and City Plan Services that it does not support the expanded scope of works and associated cost for the project.

REPORT:

The Cabarita Locality Plan is being progressed by the Cabarita Steering Committee and consultants appointed by Council, City Plan Services. The project has reached a stage where they are to commence consideration of options for master planning of the Pandanus Parade Precinct. It has become apparent that for the Committee to undertake this effectively it may need to expand the master plan study area to encapsulate the entire Cabarita Business precinct rather than just focusing on the Pandanus Parade Precinct. Considerations such as streetscape, traffic and transport, urban design, commercial/retail issues etc need to be reviewed in a holistic manner rather than in isolation.

A copy of the revised scope of works and the associated costing to undertake this work has been provided by City Plan Services. This is appended to this report.

The revised scope of works provided by City Plan Services provides a more comprehensive and complete master planning approach for the Cabarita Business District and would resolve several issues still considered outstanding such as car parking, preferred land uses, land mark sites and precincts, traffic management and streetscaping.

The master plan is intended to test opportunities and makes specific built-form and land-use proposals. The Committee and Consultants feel the present master plan area boundary is too small to resolve many of the key issues and opportunities that have been identified in the first phase of the project. They feel the Master Plan area should be enlarged in order to allow for a meaningful outcome to be presented in respect of providing a more complete outcome for the village.

When the Cabarita project was originally considered it is understood that Council's primary intention was to resolve the Pandanus Parade Precinct as there was much debate as to what should happen with Council owned land within the Precinct. The Brief prepared reflects this intent and restricted the master planning study area to the Pandanus Parade Precinct, with the broader land use and design considerations undertaken for the remainder of the Cabarita/Bogangar area.

The Brief as it stands will provide three land use options for the Pandanus Parade Precinct for Council and the community to consider, with more detailed master planning to be prepared for the preferred option. It is considered that this will effectively fulfil Council's original intent for the project and facilitate Council in making an informed decision over the Pandanus Parade Precinct.

Whilst the expanded project will provide for a more comprehensive and thorough master planning outcome for the whole of the Cabarita village it is considered that the current scope of works will provide Council with enough detail to make an informed decision over what should occur within the Pandanus Parade Precinct. However, if Council does wish to proceed with the expanded scope of works then an additional \$46,000 will need to be budgeted for and provided to complete the project.

It is recommended the current scope of works does not need to be expanded to enable Council to meet the original intent of the project and hence the additional scope of works is not supported.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

No funding is currently available in the Strategic Planning Budget to undertake the additional scope of works requested by the Steering Committee and the Consultants. If Council is to proceed with the expanded project then an additional \$46,000 will need to be provided.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. **Confidential Attachment** - Revised Scope of Works by City Plan Services (DW 1394869)
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**P11 [PD-PC] Draft Tweed Local Environmental Plan 2000, Amendment No 23
- Highway Service Centre, Melaleuca Station**

ORIGIN:

Strategic Town Planning

FILE NO: GT1/LEP/2000/23

SUMMARY OF REPORT:

In accordance with Council's resolution of 7 November 2001 a draft LEP and supporting environmental study was prepared for the Melaleuca Station site justifying the establishment of a Highway Service Centre.

Council has now requested the Department to issue a Section 65 certificate to enable the draft Plan to be exhibited. The Department has written back to Council refusing to issue the necessary certificate based on the following:

1. The draft Plan is inconsistent with Ministerial Direction 7 – Commercial and Retail Development along the Pacific Highway, North Coast;
2. The draft Plan is inconsistent with Ministerial Direction 14 – Farmland of State and Regional Significance on the NSW Far North Coast;
3. The identification of a more suitable site for the location of a highway service centre.

Council officers have made various representations to try and change the Departments position to no avail.

RECOMMENDATION:

That Council notes the advice from the Department of Planning and no further work be carried out on Local Environmental Plan Amendment No. 23.

REPORT:

Background

At its ordinary meeting of 7 November 2001 Council resolved to prepare a draft LEP to enable the development of a Highway Service Centre over Lot 703 and Part Lot 704 DP 1000580, Tweed Valley Way, Chinderah.

Council consulted with state agencies in accordance with Section 62 of the Act. Council received responses back from the following agencies:

- RTA;
- DLWC (now Department of Natural Resources);
- EPA (now DEC);
- NPWS (now DEC).

The EPA, DLWC and NPWS provided comments that have been addressed within the Environmental Study prepared for the site, or can be addressed at later stages (ie, the DA stage).

The RTA submitted an objection to the proposal on the basis that it was inconsistent with S117 Ministerial Direction S28 – Commercial Retail/Development along the Pacific Highway, North Coast from the Queensland Border to Hexham, in particular Principle 7(iii). This Clause applies to the location criteria for highway service centres, in particular a provision requiring that a centre be located no more than 500m from another approved site. In this instance the proposed Melaleuca Station site is situated greater than 500m from the approved south bound Kordic site at Chinderah.

A meeting was held between Council and RTA representatives to try and address the RTA's concern. As a result of this meeting it was resolved that Council undertake a desktop analysis to determine the most viable site to locate a service centre on the Pacific Highway.

During preparation of the desktop analysis the RTA formally wrote to Council on the 11th March 2002 advising the following:

“It is suggested Council completes its ‘desktop study’ of available and viable sites for a highway service centre on the basis that the RTA site at Chinderah interchange is not an alternative option”.

The desktop study was completed on this basis and concluded the Melaleuca Station site was the most available and viable site. A copy of this analysis was forwarded to the RTA and Consultants were duly engaged to prepare the necessary LEP and supporting Environmental Study.

Since 2002 Council has been in contact through meetings, phone calls, letters and emails concerning the draft Plan. During the process the RTA maintained its objection to the draft Plan based on inconsistency with a principle of the S117 Ministerial Direction, but primarily based on access and egress issues. At the RTA's request Council engaged a specialist Traffic Consultant to provide some preliminary concept design for the site. The Consultant undertook further traffic analysis and concept design based on discussions with RTA representatives and Council's traffic engineers. Upon completion of the concept design, the RTA maintained their objection and requested aspects of the design be amended to reflect specific traffic engineering provisions at a scale that would normally be provided at a DA stage. Council officers are of the understanding this level of traffic engineering detail is not warranted at the LEP stage and should be provided at the DA stage.

Frustrated in its efforts to appease the RTA Council referred the draft Plan to the Department of Planning (Grafton office) to issue a Section 65 Certificate to enable the draft Plan to be exhibited.

The Department has written back to Council refusing to issue the necessary Certificate based on the following:

1. The draft Plan is inconsistent with the Ministerial Direction 7 – Commercial and Retail Development along the Pacific Highway, North Coast;
2. The draft Plan is inconsistent with the Ministerial Direction 14 – Farmland of State and Regional Significance on the NSW Far North Coast;
3. The identification of a more suitable site for the location of a highway service centre.

Council officers have made various representations to try and change the Department's position to no avail.

Issues

As a result of the Planning Reforms that are currently being implemented by the Department of Planning, all its Ministerial Directions have been reviewed and amended. The changes to these legislation has some ramifications for the subject draft Plan.

The RTA's objection was based on the previous Ministerial Direction referring to Commercial and Retail Development on the Pacific Highway, and primarily because of its inconsistency governing distances between highway service centres. Changes to the new Ministerial Direction have resulted in these distance provisions being deleted. Hence, the primary reason for the RTA's objection has been eliminated. Notably, the RTA still has concerns about access and egress issues, however no direct access onto or off the highway is envisaged.

The Department's John Finlay, on 28 March 2006, advised of the following inconsistencies with the current subject S117 Ministerial Directions.

Ministerial Direction 7 – Commercial and Retail Development along the Pacific Highway, North Coast.

(3) A draft LEP shall permit the establishment of a highway service centre beside the Pacific Highway, provided that:

(a) They are located as near as possible to an existing town that has been bypassed,

Ministerial Direction 14 – Farmland of State and Regional Significance on the NSW Far North Coast.

(2) A draft local environmental plan shall not rezone land identified as “Regionally Significant Farmland” for urban or rural residential purposes.

There are a couple of issues pertaining to the points raised by the Department's John Finlay. They include:

1. The Department's decision appears to completely ignore the considerable history pertaining to the draft Plan. A desktop analysis was undertaken at the commencement of the project. The site that would satisfy Clause 3(a) of Ministerial Direction 7 referred to above was investigated as part of the original desktop analysis but was eliminated from consideration because the RTA formally wrote to Council requesting its land not be considered as part of the study. Four (4) years later, after Council committing considerable time, resources and finances to the project, the RTA has “changed its mind” and has requested the Department of Planning to consider their site. It's disappointing that the Department's determination appears wholly based on the RTA's latest letter, disregarding the history of the project.
2. The application of Ministerial Direction 14, Clause 2, appears impractical. It completely disregards the site-specific circumstances of the Melaleuca Station site. The subject site already comprises a tourist facility partially encapsulated within a significant building. The proposed Highway Service Centre is intended to be sited between the existing building and the interchange and would not reduce adjoining cane farmland. This in addition to an economic, agricultural analysis was provided in an Environmental Study to the Department. This too appears to have been disregarded. Ministerial Direction 14 is intended to protect and conserve state and regionally significant farmland. The proposed Highway Service Centre will not detrimentally impact on the objectives of this ministerial direction.

OPTIONS:

1. Make another representation to the Department to issue a Section 65 Certificate;
2. Stop processing draft LEP Amendment No 23.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

Nil.

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P12 [PD-PC] Development Application DA06/0049 for Dwelling Alteration & Addition with Building Line & Fence Height Variation at Lot 27 DP 29974, No. 8 Walter Crescent, Banora Point

ORIGIN:

Building Services

FILE NO: DA06/0049 Pt1

SUMMARY OF REPORT:

The above application was reported to Council's meeting held 13 June 2006 where Council resolved to defer the item to the next Planning Committee meeting to be held 4 July 2006 for further clarification and information to be brought forward in regard to overshadowing impacts over the adjoining property to the south.

This additional information is now provided in the background section of this report and the remainder of the report that went to Council's meeting 13 June 2006 is reproduced.

RECOMMENDATION:

That : -

- 1. The State Environmental Planning Policy No. 1 objection be supported and the concurrence of the Director General be assumed.**
- 2. Development Application DA06/0049 for a dwelling alteration & addition with building line & fence height variation at Lot 27 DP 29974, No. 8 Walter Crescent, Banora Point be approved subject to the following conditions: -**

GENERAL

- 1. The development shall be completed in accordance with the plans approved by Council and the Statement of Environmental Effects, except where varied by conditions of this consent.**
- 2. Notwithstanding the issue of this development consent, separate consent from Council under Section 138 of the Roads Act 1993, must be obtained prior to any works taking place on a public road including the construction of new driveway access (or modification of access). Applications for consent under Section 138 must be submitted on Council's standard application form and be accompanied by the required attachments and prescribed fee.**

[GEN0015]

[GEN0045]

3. The issue of this Development Consent does not certify compliance with the relevant provisions of the Building Code of Australia.

[GEN0115]

PRIOR TO ISSUE OF CONSTRUCTION CERTIFICATE

4. A construction certificate application for works that involve any of the following:-
- connection of a private stormwater drain to a public stormwater drain
 - installation of stormwater quality control devices
 - erosion and sediment control works

will not be approved until prior separate approval to do so has been granted by Council under section 68 of the Local Government Act 1993.

Applications for these works must be submitted on Council's standard s68 stormwater drainage application form accompanied by the required attachments and the prescribed fee.

[PCC1145]

PRIOR TO COMMENCEMENT OF WORK

5. The erection of a building in accordance with a development consent must not be commenced until:
- (a) a construction certificate for the building work has been issued by the consent authority, the council (if the council is not the consent authority) or an accredited certifier, and
 - (b) the person having the benefit of the development consent has:
 - (i) appointed a principal certifying authority for the building work, and
 - (ii) notified the principal certifying authority that the person will carry out the building work as an owner-builder, if that is the case, and
 - (c) the principal certifying authority has, no later than 2 days before the building work commences:
 - (i) notified the consent authority and the council (if the council is not the consent authority) of his or her appointment, and
 - (ii) notified the person having the benefit of the development consent of any critical stage inspections and other inspections that are to be carried out in respect of the building work, and

- (d) the person having the benefit of the development consent, if not carrying out the work as an owner-building, has:
 - (i) appointed a principal contractor for the building work who must be the holder of a contractor licence if any residential work is involved, and
 - (ii) notified the principal certifying authority of any such appointment, and
 - (iii) unless that person is the principal contractor, notified the principal contractor of any critical stage inspection and other inspections that are to be carried out in respect of the building work.

[PCW0215]

6. Where prescribed by the provisions of the Environmental Planning and Assessment Amendment (Quality of Construction) Act 2003, a sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the principal certifying authority for the work, and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours, and
- (c) stating that unauthorised entry to the site is prohibited.

Any such sign is to be maintained while the building work, subdivision work or demolition work is being carried out, but must be removed when the work has been completed.

[PCW0255]

7. Prior to work commencing, a "Notice of Commencement of Building or Subdivision Work and Appointment of Principal Certifying Authority" shall be submitted to Council at least 2 days prior to work commencing.

[PCW0225]

8. All roof waters are to be disposed of through properly jointed pipes to the street gutter, interallotment drainage or to the satisfaction of the Principal Certifying Authority. All PVC pipes to have adequate cover and installed in accordance with the provisions of AS/NZS3500.3.2. Note All roof water must be connected to an interallotment drainage system where available. A detailed stormwater and drainage plan is to be submitted to and approved by the Principal Certifying Authority prior to commencement of building works.

[PCW1005]

9. Prior to commencement of work on the site all erosion and sedimentation control measures are to be installed and operational including the provision of a "shake down" area where required to the satisfaction of the Principal Certifying Authority.

In addition to these measures the core flute sign provided with the stormwater approval under Section 68 of the Local Government Act is to be clearly displayed on the most prominent position of the sediment fence or erosion control device which promotes awareness of the importance of the erosion and sediment controls provided.

Please note that this sign is to remain in position for the duration of the project.

[PCW0985]

10. Residential building work:

- (a) Residential building work within the meaning of the Home Building Act 1989 must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the following information:

- (i) in the case of work for which a principal contractor is required to be appointed:

- * in the name and licence number of the principal contractor, and
- * the name of the insurer by which the work is insured under Part 6 of that Act,

- (ii) in the case of work to be done by an owner-builder:

- * the name of the owner-builder, and
- * if the owner-builder is required to hold an owner builder permit under that Act, the number of the owner-builder permit.

- (b) If arrangements for doing the residential building work are changed while the work is in progress so that the information notified under subclause (1) becomes out of date, further work must not be carried out unless the principal certifying authority for the development to which the work relates (not being the council) has given the council written notice of the updated information.

[PCW0235]

DURING CONSTRUCTION

11. **No retaining walls or similar structures are to be constructed over or within the zone of influence of Council's sewer main.**
[DUR2705]
12. **All cut or fill on the property is to be battered at an angle not greater than 45° within the property boundary, stabilised and provided with a dish drain or similar at the base in accordance with Councils adopted Design and Construction Specifications, DCP16 and DCP47 to the satisfaction of the Principal Certifying Authority.**

Please note timber retaining walls are not permitted.
[DUR0835]
13. **All building work (other than work relating to the erection of a temporary building) must be carried out in accordance with the requirements of the Building Code of Australia (as in force on the date the application for the relevant construction certificate was made).**
[DUR0375]
14. **The builder must provide an adequate trade waste service to ensure that all waste material is contained, and removed from the site for the period of construction.**
[DUR2185]
15. **Building materials used in the construction of the building are not to be deposited or stored on Council's footpath or road reserve, unless prior approval is obtained from Council.**
[DUR0395]
16. **The Principal Certifying Authority is to be given a minimum of 48 hours notice prior to any critical stage inspection or any other inspection nominated by the Principal Certifying Authority via the notice under Section 81A of the Environmental Planning and Assessment Act 1979.**
[DUR0405]
17. **It is the responsibility of the applicant to restrict public access to the building site, building works or materials or equipment on the site when building work is not in progress or the site is otherwise unoccupied in accordance with WorkCover 2000 Regulations.**
[DUR0415]
18. **The provision of adequate vehicular access in accordance with Council's "Vehicular Access to Property Construction Specification" pamphlet, including the provision of an invert crossing at the kerb and gutter where required and paving of the driveway across the footpath to the front alignment to the satisfaction of the General Manager or his delegate.**

Such to specifically include the following:

- (a) 150 millimetres thick reinforced with F72 Mesh for residential development or F82 mesh for Commercial/Industrial Development

Twenty four (24) hours notice is to be given to Council's Engineering & Operations Division before placement of concrete to enable formwork to be inspected. Failure to do so may result in rejection of the works and its reconstruction.

Paving bricks are not acceptable unless laid on a 100mm thick concrete base.

[DUR0065]

19. All work associated with this approval is to be carried out so as not to impact on the environment. All necessary precautions, covering and protection shall be taken to minimise impact from: -
- Noise, water or air pollution
 - Minimise impact from dust during filling operations and also from construction vehicles
 - No material is removed from the site by wind

[DUR1005]

20. Construction site work including the entering and leaving of vehicles is limited to the following hours, unless otherwise permitted by Council: -

Monday to Saturday from 7.00am to 7.00pm

No work to be carried out on Sundays or Public Holidays

The proponent is responsible to instruct and control subcontractors regarding hours of work.

[DUR0205]

21. The wall and roof cladding is to have low reflectivity where they would otherwise cause nuisance to the occupants of the buildings with direct line of sight to the proposed building.

[DUR0245]

22. Council is to be given 24 hours notice for any of the following inspections prior to the next stage of construction:

- (a) internal drainage, prior to slab preparation;
- (b) water plumbing rough in, and/or stackwork prior to the erection of brick work or any wall sheeting;
- (c) external drainage prior to backfilling.
- (d) completion of work and prior to occupation of the building.

[DUR2485]

- 23. Plumbing**
- (a) A plumbing permit is to be obtained from Council prior to commencement of any plumbing and drainage work.
 - (b) The whole of the plumbing and drainage work is to be completed in accordance with the requirements of the NSW Code of Practice for Plumbing and Drainage. [DUR2495]
- 24. No portion of the structure may be erected over any existing sullage or stormwater disposal drains, easements, sewer mains, or proposed sewer mains. [DUR1945]**
- 25. Dual flush water closet suites are to be installed in accordance with Local Government Water and Sewerage and Drainage Regulations 1993. [DUR2515]**
- 26. Overflow relief gully is to be located clear of the building and at a level not less than 150mm below the lowest fixture within the building and 75mm above finished ground level. [DUR2545]**
- 27. The finished floor level of the building should finish not less than 225mm above finished ground level. [DUR0445]**
- 28. All new hot water installations shall deliver hot water at the outlet of sanitary fixtures used primarily for personal hygiene purposes at a temperature not exceeding:-**
- * 45⁰C for childhood centres, primary and secondary schools and nursing homes or similar facilities for aged, sick or disabled persons; and
 - * 50⁰C in all other classes of buildings.
- A certificate certifying compliance with the above is to be submitted by the licensed plumber on completion of works. [DUR2555]**
- 29. Any damage caused to public infrastructure (roads, footpaths, water and sewer mains, power and telephone services etc) during construction of the development shall be repaired in accordance with Councils adopted Design and Construction Specifications prior to the issue of a Subdivision Certificate and/or prior to any use or occupation of the buildings. [DUR1875]**

PRIOR TO ISSUE OF OCCUPATION CERTIFICATE

30. A person must not commence occupation or use of the whole or any part of a new building or structure (within the meaning of Section 109H(4)) unless an occupation certificate has been issued in relation to the building or part (maximum 25 penalty units). [POC0205]
31. Prior to the occupation or use of any building and prior to the issue of any occupation certificate, including an interim occupation certificate, a final inspection report is to be obtained from Council in relation to the plumbing and drainage works. [POC1045]

USE

32. The building is to be used for single dwelling purposes only. [USE0505]

REPORT:

Applicant: Mr KJ Griffiths and Ms MA King
Owner: Mr KJ Griffiths and Ms MA King
Location: Lot 27 DP 29974, No. 8 Walter Crescent Banora Point
Zoning: 2(a) Low Density Residential
Cost: \$140,000

BACKGROUND:

This application was reported to Council meeting of 13 June 2006 where Council resolved to defer the item to the next Planning Committee meeting of 4 July 2006 for further clarification and information to be brought forward in regard to overshadow impacts over the adjoining property to the south.

The submission of objection raised concern that the southern wall of the addition will reduce the natural light and cause adverse shading to their living area in winter time.

Shadow diagrams were requested and provided by the owner. The shadow diagrams are shown below. The shadow diagrams indicate that the extent of overshadowing during summer to be negligible. But during winter the extent of overshadowing over the property to the south is greater, which is to be expected.

Firstly the objection indicates that the building will reduce natural light to the living area. In this regard the living area of the neighbouring building is at the rear of the building and has extensive glazing to its north and east elevations. In addition the living area also has two windows/shutters facing the west. See photos below and also attached. Therefore taking into consideration the extent of glazing it is likely that the living area will still enjoy good natural light during the days in winter.

The second part of this objection indicates that the building will also cause adverse shading to the living area in winter time.

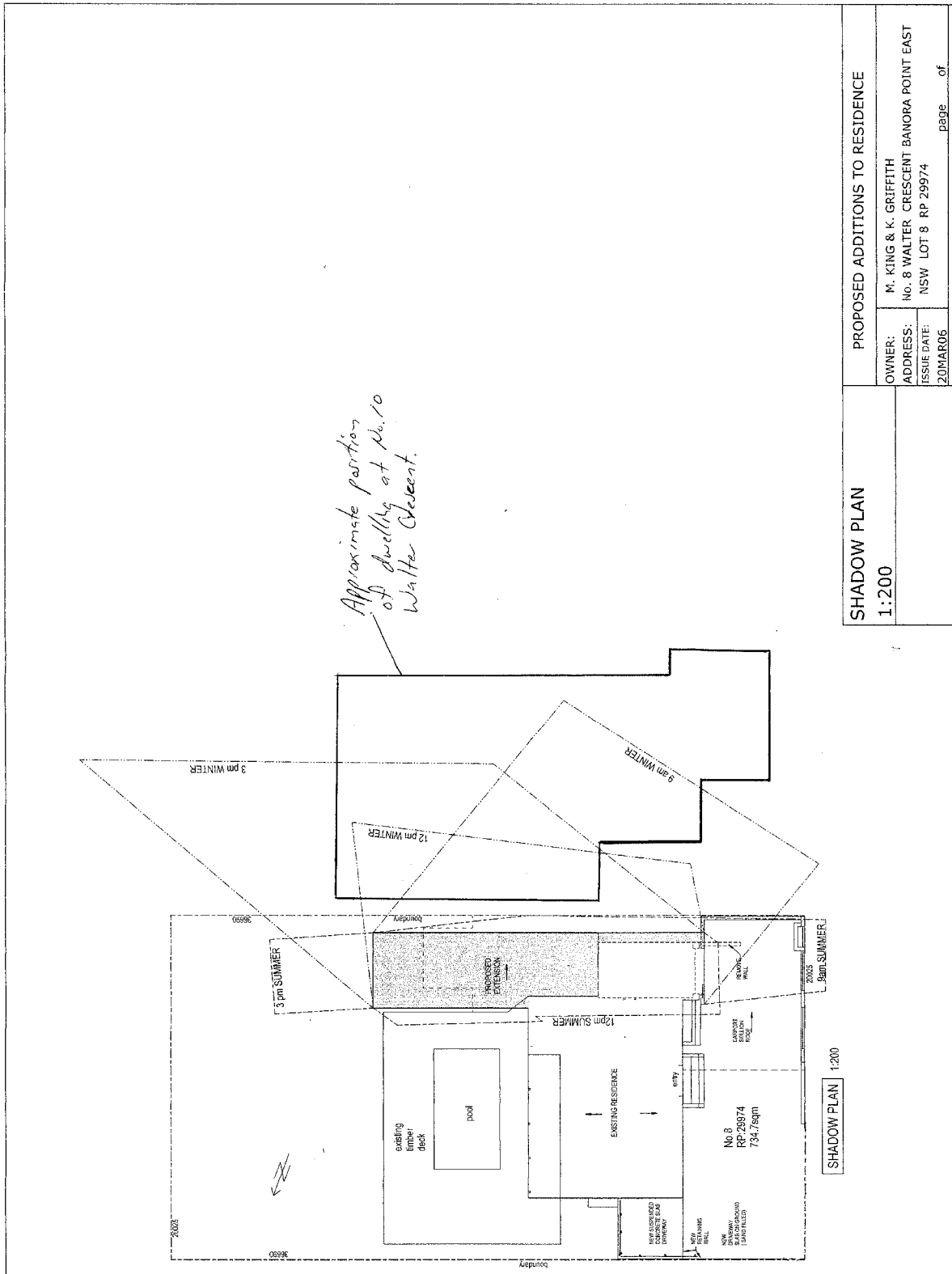
The living area in question as previously mentioned has extensive glazing to the north and east. In addition the living area has direct access to a covered verandah that extends along the full length of the northern and eastern sides of the building. This verandah also provides protection to the living area from the elements and reduces sunlight to the living area. The living area and verandah also has two (2) windows facing west. These windows are relatively small and also include shutters. These design features indicate that solar access to the living area was not a priority compared to the views sought.

The shadow diagrams indicate that the living area will still enjoy direct sunlight during the morning hours and by midday and the afternoon hours it is likely that direct sunlight to the northern side of the building including the living area may be lost. However, the western side of the building including the living area will still enjoy solar access for some of the afternoon hours during winter. This is achieved by the two windows facing west from the living area and verandah. These are shown on the attached photos.

The affected dwelling is reasonably new and it has enjoyed good sunlight as the subject dwelling to the north is only single storey and the height of that land is lower. With escalating property prices and the 'Seachange' lifestyle many other dwellings in the locality have had improvements and additions similar to that proposed. Therefore it would be expected that the single storey building on the subject land would at some time be improved, as proposed. Unfortunately the orientation of the lots being east west and the constraints of the subject land and the existing building have made it difficult to minimise overshadowing. But it is considered that the extent of overshadowing over the adjoining property, particularly the living area of the building is reasonable for the reasons discussed above.

Therefore it has been reasonably demonstrated that the living room will still have good natural light due to the extent of glazing. It is also unlikely that the amount of overshadowing during winter would be significantly adverse to the living area. Solar access to the living area is still available during the morning and afternoon hours during winter, which is reasonable.


SHADOW DIAGRAM:



SHADOW PLAN 1:200	PROPOSED ADDITIONS TO RESIDENCE	
	OWNER: M. KING & K. GRIFFITH	ADDRESS: No. 8 WALTER CRESCENT BANORA POINT EAST
	ISSUE DATE: 20/MAR/06	NSW LOT 8 RP 29974
		page of

SITE DIAGRAM:



<p>© TWEED SHIRE COUNCIL 2006 Although all care has been taken with the production of this map, the TWEED SHIRE COUNCIL, its Employees, Officers and Consultants can not be Responsible for any Errors, Omissions or Inaccuracies in respect to the information supplied in this map. DO NOT SCALE COPY ONLY - NOT CERTIFIED P.O. Box 816 Murwillumbah, NSW, 2484 Tel: (02) 6670 2400 Fax: (02) 6670 2483</p>	<p><i>Tweed Shire Council</i> Lot 27 DP 29974 No. 8 Walter Crescent, Banora Point</p>		<p>STRATEGIC PLANNING UNIT Site Plan</p>
<p>File: N:\MapInfo 7...A4P Site Plan.Wor</p>		<p>Author: J.Batchelor Date: 29/May/2006</p>	<p>Scale: 1:10,000 Sheet: 1 of 1</p>

PHOTOS:





Photo taken at approximately 3pm

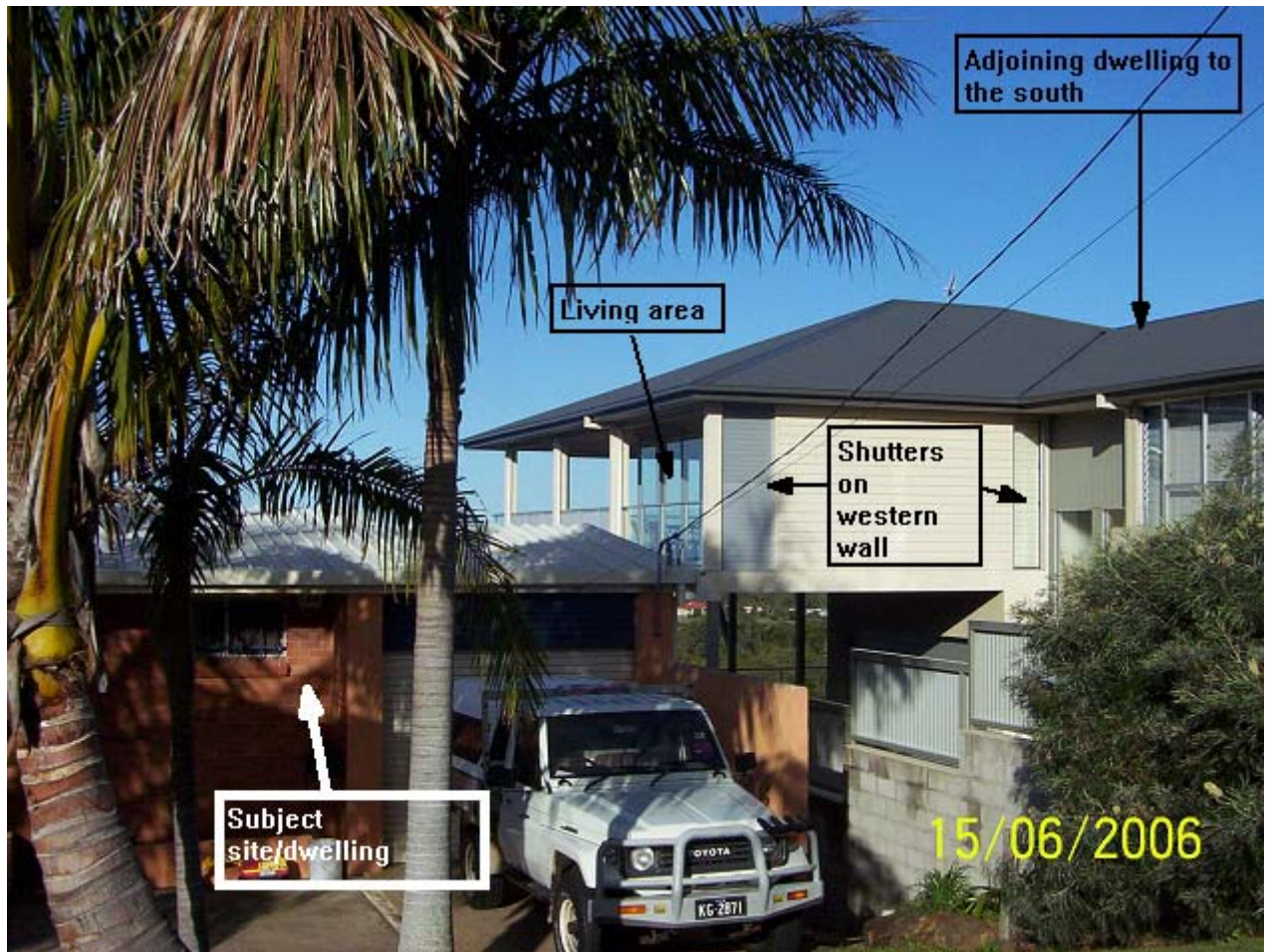
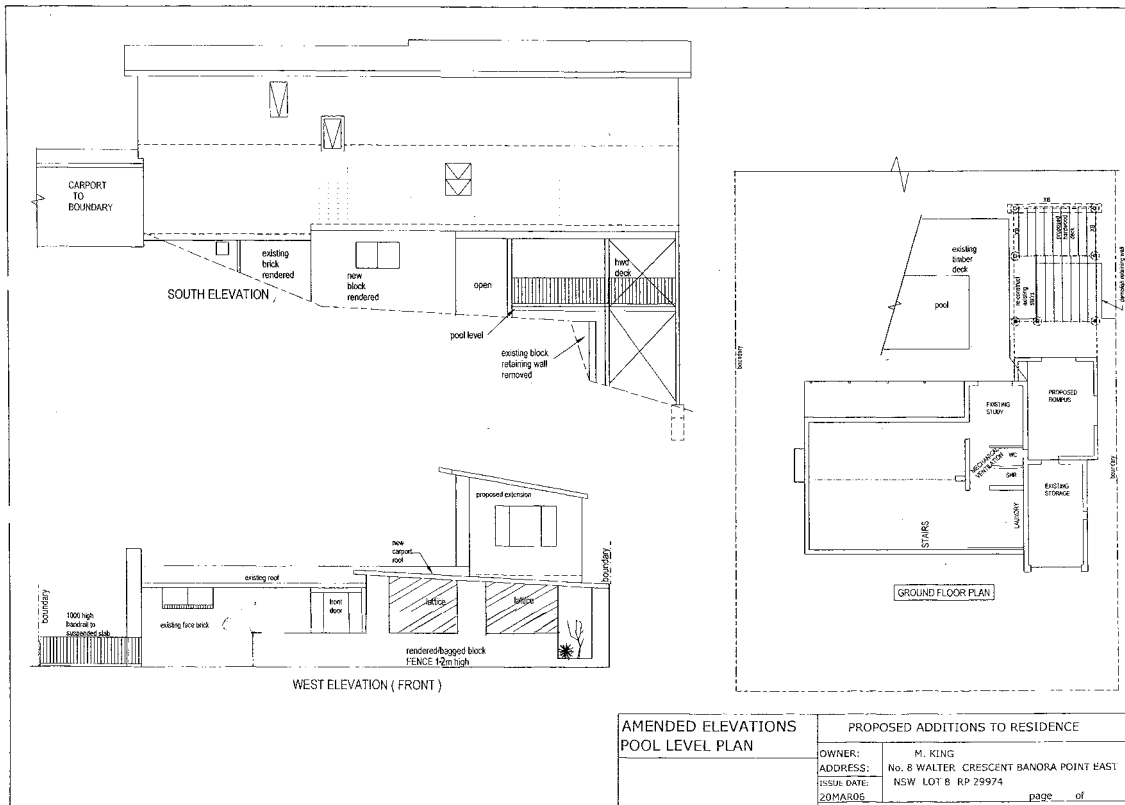
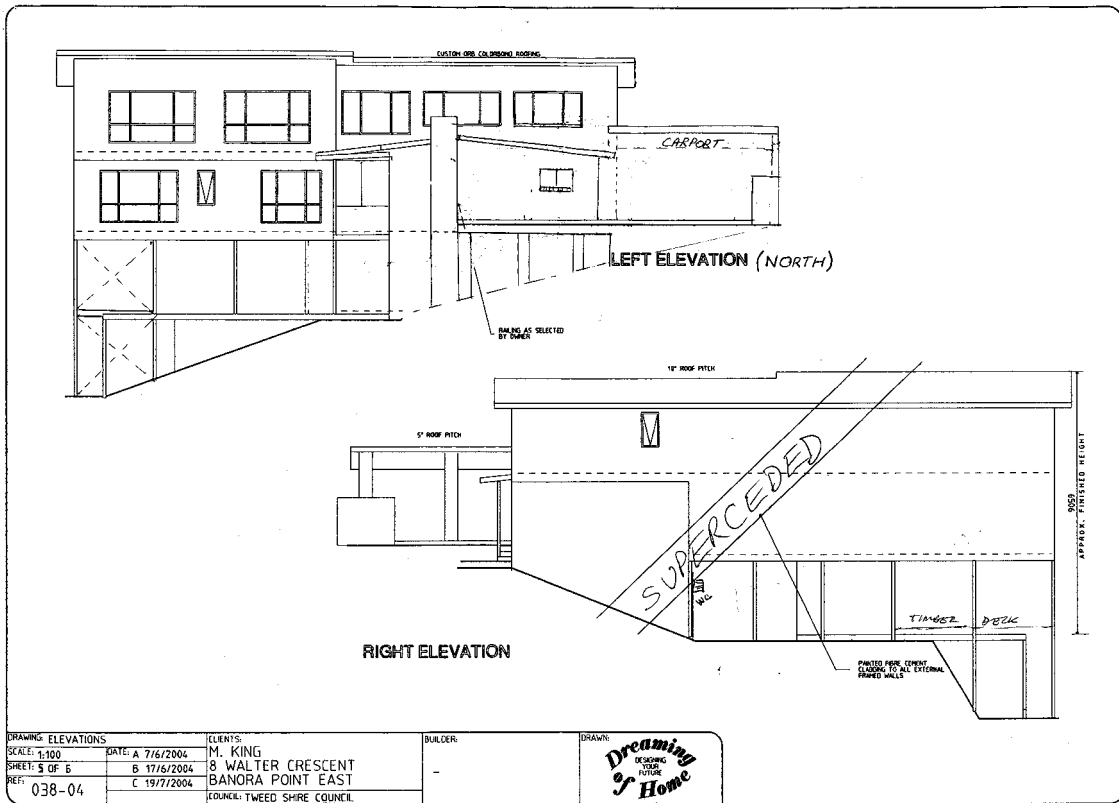
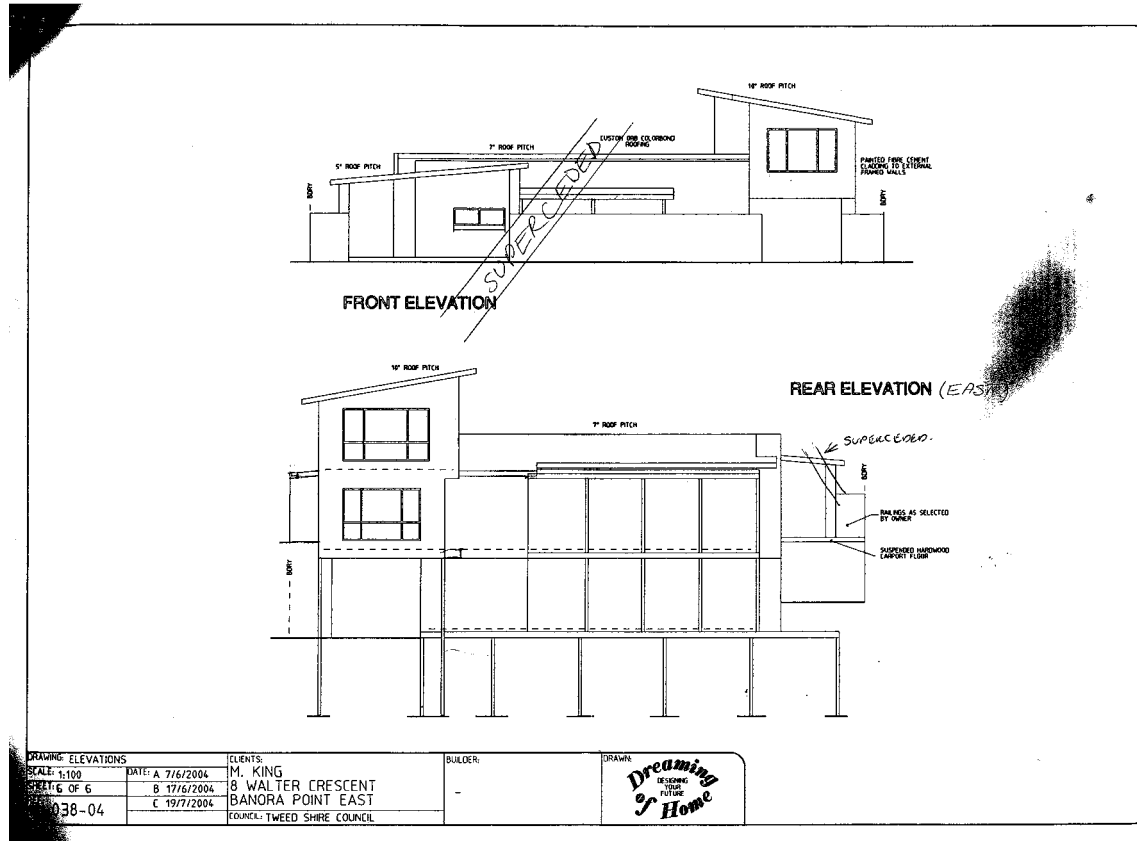


Photo taken at approximately 3pm

ELEVATION PLANS







CONSIDERATIONS UNDER SECTION 79C OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT ACT 1979:

(a) (i) The provisions of any environmental planning instrument

Tweed Local Environmental Plan 2000 (TLEP 2000)

The subject land is zoned 2(a) Low Density Residential under the provisions of the TLEP 2000 within which dwelling houses are permissible subject to Council's consent.

Clause 16 – Height of buildings identifies that the subject site and locality has a three (3) storey height limit. The proposed additions will create a four (4) storey building, which does not comply. Subsequently the applicant has submitted a SEPP 1 objection contending that this development standard is unreasonable and unnecessary under the circumstances, which will be discussed below.

State Environmental Planning Policies (SEPP)

SEPP No.1

The provisions of clause 16 – Height of buildings of the TLEP 2000 and the Height of Buildings map indicate that the subject site and the locality have a three (3) storey height limit. The proposed additions and alterations will create a four (4) storey building, which does not comply.

Subsequently the applicant has submitted a SEPP No.1 objection contending that strict compliance with this clause or the three (3) storey height limit is unreasonable and unnecessary under the circumstances. The applicant's submission is as follows: -

"This objection relates to a development application for alterations and additions to an existing dwelling house at No.8 Walter Crescent, Banora Point East.

The proposal would result in the addition of a storey on the existing building house, which due to the topography, would constitute a fourth storey. Accordingly, the following objection to the development standard is submitted."

This objection is in respect of the development standard contained in Clause 16(2) of the TLEP 2000.

Clause 16(2) of the TLEP requires that: -

"Consent must not be granted to the erection of a building, which exceeds the maximum height or number of storeys indicated on the Height of Building map in respect of land to which the application relates."

The height limit for the site in this case is three (3) storeys. The definition of 'storey' in TLEP 2000 is as follows:

Storey means:

- (a) the space between two floors, or
- (b) the space between a floor and the ceiling or roof immediately above it, or
- (c) foundation areas, garages, workshops, storerooms and the like, excluding access paths to basement areas, where the height between the finished ground level and the top of the floor immediately above them exceeds 1.5 metres in height.

A storey which exceeds 4.5 metres for residential buildings is counted as two storeys.

A storey which exceeds 5 metres for commercial buildings is counted as two storeys.

For the purpose of counting the number of storeys in a building, the number is to be the maximum number of storeys of the building, which may be intersected by the same vertical line, not being a line, which passes through any wall of the building.

The proposed development would result in a building that is technically four (4) storeys in height in a limited location. Consequently, as the development exceeds the height limit prescribed by the development standard, it is necessary to make this objection.

The building would be considered to be four (4) storeys in part, as the height between the finished ground level and the 'ground floor' floor level would exceed 1.5 metres. The part of the building that is considered to be four (4) storeys is located at the eastern extent of the site. The area beneath the ground floor would be foundation area and not put to any specific use.

The proposal is four (4) storeys when viewed from the eastern elevation (rear) for approximately 4.5 metres in building length. That part of the building is four storeys for an approximate depth of four (4) metres. This means that the component of the building that is four (4) storeys measures 4.5m wide and 4.0m deep. The total building length is 18.5 metres and with the carport 24.0 metres long. The area of non-compliance represents 21% of the length of the building.

The four (4) metres (depth) of the dwelling house that would constitute a fourth storey would be used as the living area. The living area would be provided with a picture window to the east and the north, both capturing views.

The objective of the standard is:

“To ensure that the height and scale of the development is appropriate to its location, surrounding development and the environmental characteristics of the land.”

The following matters are relevant to assessing the merits of the departure from the development standard.

- * There are special circumstances in this instance as the topography does not readily enable the existing dwelling house and its additions to comply with the three (3) storey height limitation.
- * The building is not uniformly four (4) storeys, but only exceeds the three (3) storey limit where the foundation area below the ‘ground floor’ exceeds 1.5 metres in height measured from the finished ground level.
- * The variation request relates to approximately four (4) metres in length of the eastern extent of the building when viewed from the northern and southern elevations. The overall length of the dwelling would be 18.5 metres. This represents 21% of the length of the building and would be located at the most eastern extent of the dwelling. The proposed use would be living area.
- * The dwelling house would, when viewed from Walter Crescent, appear as a part one (1) and two (2) storey dwelling. The proposal would not result in adverse impact to the streetscape.
- * Significant views and vistas available in the locality would not be adversely impacted by the proposal. Adjoining dwellings on the eastern side of Walter Crescent would maintain panoramic ocean views. Dwellings on the western side of Walter Crescent would, due to lower topography, generally maintain their existing views however with minor interruption due to the addition of a second storey in part on the existing dwelling when viewed from Walter Crescent.
- * Potential overlooking and loss of privacy to the adjoining dwelling on the southern side would be negligible as there are no windows orientated to the southern elevation for that part of the dwelling that is four (4) storeys in height.
- * Potential overlooking and loss of privacy to the adjoining dwelling on the northern side would be negligible due to the variation in levels between the dwellings and the local topography. It is also noted that the fourth storey living area would be approximately 14.0 metres from the northern property boundary diminishing any potential loss of privacy.
- * The proposed variation is minor in the context of its physical setting and would not set an undesirable precedent. Moreover it would not compromise relevant planning objectives.

- * The adjoining property to the east is maintained as open land. The proposed additions to the dwelling house would not compromise the potential development of that land.
- * The extent of shadow impacts to the southern property due to the proposed departure would not be significant. The southern property has a higher elevation which combined with the dwelling design would enable winter sun to be captured.
- * The height and scale of the development is appropriate to its location and the character of the surrounding locality.

It is concluded that compliance with the development standard is both unreasonable and unnecessary in this circumstance. No good planning purpose would be achieved, in this case by the strict adherence to the development standard. Indeed, to do so would adversely compromise the urban development objectives of the land proposed for development.”

Comment

It is considered that the applicant’s submission justifying the variations to the development standard of clause 16 of the TLEP 2000 are warranted and the variation and SEPP No.1 objection should be supported.

The development of the land is constrained by its topographical features and strict compliance with the standard in this instance is of no planning benefit. The design, scale and appearance of the dwelling are considered to be consistent with the locality and are not likely to detract on the streetscape. It is also accepted that views and privacy will not be significantly compromised due to the design and limitation of windows to the southern elevation.

Overshadowing is also expected to be negligible. The applicant has prepared and submitted shadow diagrams, which demonstrate that the building will overshadow the property to the south, more so during winter, but it is considered that the extent of overshadowing is reasonable and the property to the south will still likely enjoy adequate sunlight during winter and summer.

The variation is considered to be minor only affecting a small portion of the building at its eastern extent for approximately 4.0m when viewed from the southern and northern elevations. When viewed from the street the building would appear to be two (2) storeys.

(a) (ii) The Provisions of any Draft Environmental Planning Instruments

N/A

(a) (iii) Development Control Plans (DCP’s)

No DCP’s of any specific importance.

(a) (iv) Any Matters Prescribed by the Regulations

N/A

(b) The likely impacts of the development and the environmental impacts on both the natural and built environments and social and economic impacts in the locality

It is considered that the proposal is not likely to create any significant adverse negative impacts on both the natural or built environments of the locality.

Minimal physical disturbance is envisaged during construction, which is expected to be short term and suitably protected by erosion and sedimentation control measures where appropriate. No clearing of significant vegetation envisaged.

Currently the site enjoys two driveway accesses one of which is proposed to be removed to accommodate the proposed carport. This will leave one existing driveway, which is satisfactory.

The design, scale and appearance of the building is considered to be reasonable and is generally consistent with the established and desired built form and character of the locality and also promotes a positive contribution to the streetscape.

Overshadowing, privacy and loss of views has been previously discussed in this report and it is considered that these impacts are likely to be negligible.

Views on both sides of the street should largely be maintained as these properties enjoy extensive panoramic views of the ocean. It is envisaged that there would likely be minor interruptions to views.

Shadow plans have been submitted for both summer and winter, which demonstrate that the additions will overshadow the property to the south during winter only. Nevertheless it is considered that the extent of overshadowing is reasonable and the property to the south will still gain suitable sunlight during the winter days. In addition the land and the dwelling to the south is slightly more elevated due to the topography, which further reduces potential overshadowing.

Impact on privacy, particularly for the property to the south is expected to be minimal as the southern elevation of the additions has only three (3) small windows suitably located to minimise impacts on privacy. The larger windows are oriented to the eastern and northern elevations, which are suitable.

The impact of the carport and the front fence in regard to the streetscape and the locality has been separately reported to DAP for the building line and fence height variations. Again it is considered that these structures will not

significantly detract on the streetscape, will compliment the dwelling and are supported due to the exceptional circumstances of the site.

(c) Suitability of the site for the development

It is considered that the site is suitable for the proposed development. The land was created for residential purposes and has historically been used for residential purposes similar to the locality.

Site constraints such as the topography of the land being steep have restricted the building area available. Subsequently the proposal has sought a number of variations. This would indicate that perhaps the proposal is not suitable for the site. However, as discussed above in section (b) of this report the design, scale and appearance of the additions will compliment the existing dwelling and is generally consistent with the established built form and character of the estate and promotes a positive contribution to the streetscape.

As previously mentioned the variations to the building line (carport) and the front fence height has been separately reported to DAP on the 31 March 2006, which supported the building line variation and the fence height variation subject to the height of that portion of the carport below the lattice panels being reduced to a maximum height of 1.2m and further that the section of the masonry fence between the front of the carport and the entry point be also reduced to 1.2m and the remaining 600mm is to have a similar treatment to the carport openings.

In this regard the applicant has satisfactorily undertaken these changes and modified the plans accordingly.

(d) Any submissions made in accordance with the Act or Regulations

Adjoining owners were notified and one (1) submission of objection has been received. The details of this submission will be discussed below.

* The proposed addition is four (4) storeys and is outside current guidelines i.e, three (3) storey locality.

Comment

This matter has been extensively discussed in this report. The additions will make the dwelling four (4) storeys in a three (3) storey locality and the applicant has submitted a SEPP No.1 objection contending that the development standard requiring a three (3) storey height limit to be unreasonable and unnecessary under the circumstances. This SEPP No.1 objection has been supported to vary the three (3) storey height limit. Generally the variation is considered to be minor and is unlikely to significantly detract on the residential amenity of the locality.

- * Approval of this development could cause a precedent to be set in the area.

Comment

Any similar applications will be considered on their merits. The proposal should it be approved is not likely to create an undesirable precedent. As discussed in this report the variations are minor and generally the design, scale and appearance of the additions will compliment the existing dwelling and is generally consistent with the established built form and character of the locality and also promotes a positive contribution to the streetscape.

- * If approved in its four (4) storey form the high southern wall of the addition will reduce the natural light and cause adverse shading to my living area in winter time.

Comment

Overshadowing impacts has been discussed in section (b) of this report. The applicant has submitted shadow diagrams for both mid winter and mid summer. No overshadowing over the adjoining property is expected during summer but overshadowing is expected during winter. Overshadowing during winter is expected to be negligible and the adjoining property to the south will still enjoy reasonable sunlight during the winter days. The living area of the neighbouring dwelling is at the rear of the building and has large windows facing the north and east. Those facing the east will have some overshadowing, which is not considered to be significantly adverse. It is likely that the living area will still enjoy reasonable sunlight during the day in winter, particularly in the morning hours. In addition the extent of glazing to the living area should ensure that adequate natural light is maintained. In addition the land and the dwelling to the south is slightly more elevated due to the topography, which further reduces overshadowing impacts.

In this instance it is considered that the reasons for objection are not reasonably justified and does not warrant modification or refusal of the application.

(e) Public interest

Under the circumstances it is considered that the proposal will not be contrary to the public interest.

OPTIONS:

1. Approve the application with conditions.
2. Refuse the application.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

In the event that the applicant is dissatisfied with Council's determination, a right of appeal exists to the land and Environment Court. The proposed development is not designated and as such no third party appeal rights exist.

POLICY IMPLICATIONS:

Nil.

CONCLUSION:

It is considered that the proposed additions and alterations are reasonable and should be supported. The circumstances of the land have generally constrained and determined the nature of the development and as such variations to Council policy are warranted.

It has been reasonably demonstrated in this report that the development would significantly detract on the residential amenity of the locality particularly the neighbours in regard to overshadowing and privacy. It is considered that the proposal will compliment the building and is generally consistent with the established and desired built form and character of the estate.

The objection has been considered and under the circumstances the reasons for objection have not been justified and does not warrant modification or refusal of the application.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Coloured photographs (DW 1417255)
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OPERATIONS COMMITTEE

01 [GC-OC] Upgrade of the Tweed Shire Council Computer Room

ORIGIN:

Information Systems & Technology

SUMMARY OF REPORT:

Council's current computer room is located on the first floor of the main office in Murwillumbah and has outgrown its effective usefulness.

The growth in IT requirements and the need for true "business continuity" has resulted in an increase in the amount of hardware being installed in the Council computer room. There is an immediate business need to provide a data centre that is secure and scalable in terms of logistics and environmental conditions.

A decision was made to relocate the computer room to the second floor of the Murwillumbah office to allow for the construction of office space directly above the existing computer room.

The tender requirements for upgrading the computer room include power management, air conditioning, fibre cabling, 24x7 monitoring of the computer room environment, air conditioning and power redundancy, and maintenance of all installed equipment. The tender requirements do not include the construction of the new computer room walls or raised floor.

The criteria for assessing the responses outlined in the tender document was based on relevant experience, track record, technical skills, management, methodology, time performance and price.

RECOMMENDATION:

That Council awards the tender for the supply, installation and fitout of equipment required for the new computer room to Sundata Pty Ltd for \$192,465.45 (GST exclusive).

REPORT:

BACKGROUND INFORMATION:

The existing computer room is located on the first floor of the main office in Murwillumbah and has outgrown its effective usefulness as a low risk site based on the following:

- Growth in IT requirements and the need for true “business continuity” which has resulted in an increase in the amount of hardware being installed in the Council computer room.
- The current air conditioning unit does not meet the “Australian standard for Computer Accommodation - AS2834”.
- Many single points of failure exist in the current electrical reticulation system.
- The existing electrical and data cable management is less than ideal.
- Relocating the computer room will allow Council to construct additional office space above the existing computer room.

The business needs:

- To provide a data centre that is secure and scalable in terms of logistics and environmental conditions.
- To ensure business continuity and data security for all business critical applications.
- To ensure that environmental controls (i.e. power, air conditioning etc) are monitored 24 x 7.

The requirements for upgrading the computer room are, but not limited to:

- Electrical switchboard/s, incorporating mechanical services, dual bus essential supply, non-essential supply, UPS bypass supply, and future connection to external generator.
- Uninterruptible power supply with option for initial load and future redundancy.
- Transient voltage surge suppression devices for all critical services.
- Power distribution to specified number of racks in dual redundant paths.
- Computer room air conditioning. Air-cooled, floor standing, under floor discharge with redundant option.
- Monitoring services incorporating 24hr alarm notification via agreed method.
- Fibre and data cabling schedule.
- Maintenance schedule for installed equipment.
- Completion of works eight (8) weeks from issuing of work order.

TENDER EVALUATION:

The tender evaluation is shown as Attachment 2 in the supplementary confidential attachment under separate cover.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funding provided by loans and Section 94 contributions.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. **Confidential** Supplementary Information to Agenda Item Upgrade of the Tweed Shire Council Computer Room (x2) (DW 1417402).
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O2 [GC-OC] 2006/2007 Fees & Charges - New Fee

ORIGIN:

Financial Services

SUMMARY OF REPORT:

Council's domestic waste contractor, Solo Waste has implemented a new fee for domestic waste bins fitted with garbage compactors. Compacted waste removed from these bins expands by an estimated 60% once inside the Solo Waste garbage trucks.

It is proposed to increase the existing fee by 60% for bins fitted with compactors and on-charge the relevant property owners:

Size 3 Bin with compactor

1 collection per week \$50.70

2 collections per week \$95.80

This revised fee will have minimal impact on ratepayers, as currently there is only one property utilising this service. In accordance with the Local Government Act, appropriate public notice must be given of this fee increase. Any submissions received will be presented to Council.

RECOMMENDATION:

That in accordance with Section 610F(1)(3) of the Local Government Act 1993, public notice of 28 days of the proposed fee for Size 3 Bin with compactor, 1 collection per week \$50.70 and 2 collections per week \$95.80, be provided.

REPORT:

As per summary.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

03 [GC-OC] Decrease in Number of Councillors

ORIGIN:

Corporate Performance

SUMMARY OF REPORT:

The Hon. Kerry Hickey, MP, Minister for Local Government by notice in the NSW Government Gazette, No. 72, dated 2 June 2006, has approved the decrease in the number of Councillors of the Tweed Shire Council from eleven to seven.

The decrease in numbers will not take place until the next election of the Council.

RECOMMENDATION:

That Council notes the decision by the Minister for Local Government to decrease the Councillor numbers from eleven to seven, effective at the next election of the Council.

REPORT:

Following is the advice that Council received in relation to the application by Tweed Shire Council to reduce the number of Councillors:



The Hon. Kerry Hickey MP
Minister for Local Government

Mr Michael Rayner
Acting General Manager
Tweed Shire Council
PO Box 816
MURWILLUMBAH NSW 2484

COUNCILLORS- GENERAL

TWEED SHIRE COUNCIL	
FILE No. ELECTIONS- GENERAL	Doc ID: A53152
Doc. No.	Ref: 06/0428
REC'D 26 MAY 2006 18 MAY 2006	MIN: 06/2883
ASSIGNED TO: BRACK, P	
HARD COPY <input type="checkbox"/>	IMAGE <input checked="" type="checkbox"/>

Dear Mr Rayner

I am writing in relation to the application by Tweed Shire Council to reduce the number of councillors from eleven to seven in accordance with section 224A of the *Local Government Act 1993*.

I am pleased to advise that the application has been approved.

The Instrument of Approval will be published in the Government Gazette in the near future. I enclose a copy for your information.

Please note that the reduction will not take place until the election on 27 September 2008.

I have written in similar terms to the Administrators.

Yours sincerely

Kerry Hickey MP
Minister

LOCAL GOVERNMENT ACT 1993
DECREASE IN NUMBER OF COUNCILLORS
TWEED SHIRE COUNCIL

COPY

I, **KERRY HICKEY MP**, Minister for Local Government, in pursuance of section 224A of the Local Government Act 1993, do hereby approve of the number of councillors of the Tweed Shire Council being decreased from eleven to seven.

PROVIDED:

The decrease does not take place until the next election of the Council.

Dated this day of 2006.

SIGNED

Kerry Hickey MP
Minister for Local Government

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

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04 [EO-OC] Oxley Cove Peninsular Community Land Plan of Management

ORIGIN:

Water

FILE NO: Tweed River Committee

SUMMARY OF REPORT:

The Tweed River Committee has prepared a Community Land Plan of Management for an area of foreshore land at Oxley Cove, on the banks of the Tweed River. The area covered by the plan is undeveloped open space with high conservation and recreational value. The Community Land Plan of management has been prepared in accordance with the Local Government Act 1993, and will be implemented with funding from the Tweed River Committee. A significant recommendation of the plan of management is the closure of section of track on the long narrow constructed strip of land at the end of Old Ferry Road, to motorised vehicles. The track is located on road reserve, and closure is being recommended to limit incidents of dumping and other anti-social activity, and increase the safety of the area for pedestrian use. Track closure is recommended for six months to allow a comprehensive assessment of both positive and negative aspects of it's closure, after which a final decision on vehicle access will be made.

RECOMMENDATION:

That Council:-

- 1. Adopt and implement the Oxley Cove Peninsular Community Land Plan of Management.**
- 2. Approve a six month trial closure of the road reserve at the end of Old Ferry Road on the river bank to the west of the mouth of the canal estate pursuant to Section 122 of the Roads Act, 1993 being the temporary regulation of traffic and advertised accordingly.**

REPORT:

Oxley Cove Canal Estate is located off Old Ferry Road, Banora Point, and sits opposite Chinderah on the banks of the Tweed River. As well as residential homes and constructed waterways, the area is characterised by the presence of two areas of undeveloped foreshore land, highly popular for recreation.

A significant portion of this area is community land under the management of Council, and due to its high value in terms of both conservation and recreation, a community land plan of management has been prepared for the area in accordance with the requirements of the Local government Act 1993. This project has been undertaken with funding from the Tweed River Committee.

The Oxley Cove area and its attendant open space is shown in the aerial photograph below. Land coloured yellow is community land, areas with blue hatch are wetland protected under SEPP 14. The area where vehicles are proposed to be excluded on a six-month trial is located on the long narrow section of land, west of the canal entrance.



Figure 1. Oxley Cove canal Estate – Community Land and SEPP 14 Wetland

In accordance with the requirements of the Local Government Act, community land has been classified and recommendations for management of each part of the area developed. The bulk of this area is classified as Natural Area – Bushland, however certain appropriate portions have been classified as General Community Use.

During preparation of the Community Land Plan of Management, community consultation has been undertaken in accordance with the requirements of the Local Government Act.

Consultation has included:-

- Two mail outs to residents in the immediate locality
- Interviews with residents during preparation of the draft plan
- Distribution of surveys to assess community priorities
- Exhibition of the draft document and consideration of submissions
- A public meeting

The two main goals of the Community Land Plan of Management have been to protect and enhance the biodiversity values of the subject land, while supporting and ultimately improving the recreational opportunities provided in the area. Presently, parts of the area are degraded by high levels of weed infestation, and there are also strong community concerns relating to the use of motor vehicles in an area popular with walkers.

Generally there is a high level of satisfaction with the content of the plan, however there is one recommendation that has attracted opposition from a small number of people. This recommendation is to restrict motorised vehicle access to a section of the river foreshore at the end of Old Ferry Road, a step which will improve pedestrian safety and perhaps reduce anti-social behaviour in the area. To fully gauge the implications of this access restriction, and receive feedback from community members not reached through consultation, a trial track closure is recommended, with a final decision on the access being made following further submissions from affected parties. Notification of Councils intent to proceed with the temporary closure of the Road Reserve will be placed in the Tweed Link, if the recommendations of this report are adopted.

Another important recommendation of the plan is for a park design to be prepared for part of the land, a section previously cleared and heavily infested by weeds, classified under the plan of management as general community use. Such a plan will be commenced within 12 months of the adoption of this plan of management by Council with funding allocated to this area from the Recreation Services Unit.

A complete copy of the Oxley Cove Peninsular Community Land Plan of Management can be viewed at the Council Meeting, with the Director Engineering & Operations and can be found at DW 1397350.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The Tweed River Committee has allocated \$40, 000 from its 05/06 budget to implement the Plan of Management. Additional funding from the 06/07 Tweed River Committee budgets will be required, and this has been identified by the Tweed River Committee in forward allocation planning. Recreation Services have \$20, 000 available for a park design plan.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

05 [EO-OC] Application to Close and Purchase Part of Road Reserve - Limosa Road, Tweed Heads West

ORIGIN:

Design

FILE NO: GR3/12/7

SUMMARY OF REPORT:

Council has received an application to close and purchase part of a road reserve adjacent to Lot 113 in DP 701433 to allow for an existing carport encroachment. A compounding of minor errors has resulted in the carport encroaching onto the road reserve to a minimal degree. To correct this anomaly a small section of the road reserve is required to be closed and purchased by the landowner, being an arc of maximum 2m deep.

The road closure would not impact in any way on the properties either side of Lot 113, nor would it interfere with the pedestrian access currently available.

An inspection of the site has been conducted and it was determined that no Council or other service infrastructure was apparent within or near this part of the road reserve that would have a detrimental impact.

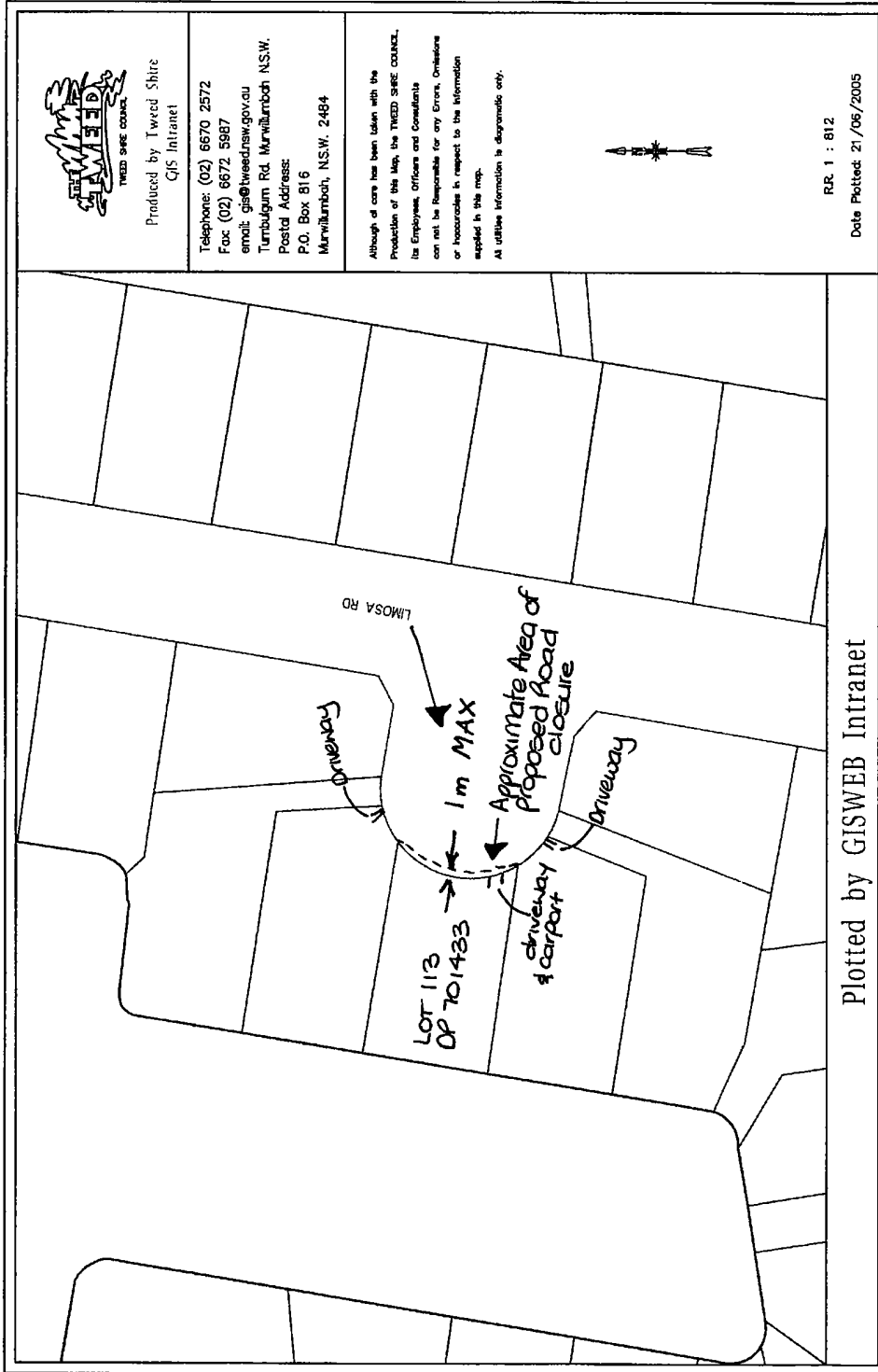
RECOMMENDATION:

That:-

- 1. Council approves the closure of part of the road reserve adjacent to Lot 113 in DP 701433, Limosa Road, Tweed Heads West;**
- 2. The applicant bears all the survey and legal costs and purchases the subject land as determined in value by a local registered valuer;**
- 3. The title of the closed road be consolidated with the adjacent land;**
- 4. Easements be created over public authority reticulation services, if any; and**
- 5. All necessary documentation be executed under Common Seal of Council.**

REPORT:

As per Summary of Report.



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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O6 [EO-OC] Telstra Lease from Council - Round Mountain Reservoir, Bogangar

ORIGIN:

Design

SUMMARY OF REPORT:

At its meeting held on 15 September, 2005 Council received a report detailing the terms of a proposed lease to Telstra to enable them to construct a low impact facility on the Round Mountain Reservoir. It was resolved to enter into the Lease for a period of five years with a right of renewal at a rental of \$10,000 per annum.

The lease documentation has now been received and approved by Council and it is now necessary to resolve to execute the lease documentation under the common seal of Council.

RECOMMENDATION:

That:-

- 1. Council approves entering into a Lease with Telstra for a term of five (5) years with a right of renewal for three more consecutive terms of five years on the Round Mountain Reservoir located at Bogangar within Lot 24 DP1058759; and**
- 2. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

As per Summary of Report, a copy of DP 1058759 showing the subject Lot where the Round Mountain Reservoir is located:-

PLANFORM 2
SIGNATURES AND SEALS ONLY

WARNING : Electronic Document supplied by LPS NSW for your internal use only.

Box: 16-105 / Doc: DP 1058759 / Rev: 29-09-2003 / Sys: SC / Ref: 30-sep-2003 01:32 / Sys: AL / Seq: 1 of 2

DP1058759
Registered: 2 9 2003

C.A.: SEE CERTIFICATE
Title System: TORRENS
Purpose: SUBDIVISION
Ref Map: X5460-1,4
Last Plan: DP686026, DP1009550, DP1013916

PLAN OF SUBDIVISION OF LOT 1 IN DP686026, LOT 20 IN DP1009550 AND LOT 2 IN DP1009516

Lengths are in metres. Reaction Date: 1 8090

L O A
TWEED
SHIRE/CITY/LOCAL GOVERNMENT
ROUND MOUNTAIN AND BOGANGAR
CUDGEN
ROUS

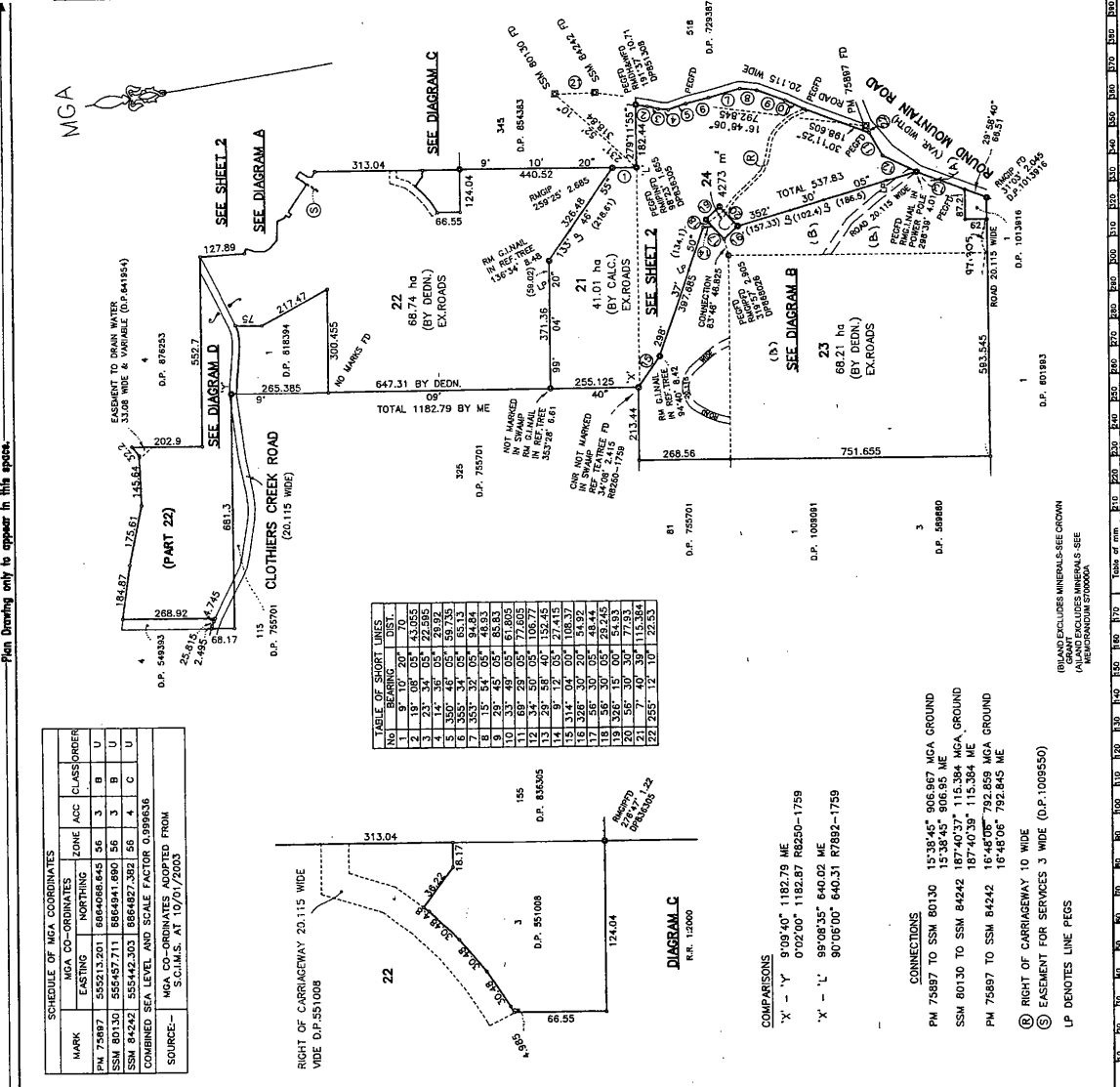
This is sheet 1 of my plan in 2 sheets
(delete if inapplicable)

Survey Certificate
(delete if inapplicable)
NIGEL CLIVE WHITE
P.O. BOX 35 MURRLUMBAH 2484
a company registered under the Companies Act 1926,
in accordance with the provisions of the Surveyors
Act 1976 and the Surveyors Regulation 1976
(Previous Reg No. 10702/2003)

LOT 21, 24 & CONNECTIONS

PLAN FOR USE ONLY for elements of division
drainage easements, easements, restrictions on the
use of land or restrictive covenants
THE CONVEYANCING ACT 1919 - 1984 IT IS INTENDED
TO CREATE :-
1. RESTRICTION ON USE OF LAND
2. RIGHT OF CARRIAGEWAY 10 WIDE
3. WIDTH
TO RELEASE :-
1. RIGHT OF ACCESS 6 WIDE CREATED
IN D.P. 686026

PLAN FOR USE ONLY for elements of division
drainage easements, easements, restrictions on the
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THE CONVEYANCING ACT 1919 - 1984 IT IS INTENDED
TO CREATE :-
1. RESTRICTION ON USE OF LAND
2. RIGHT OF CARRIAGEWAY 10 WIDE
3. WIDTH
TO RELEASE :-
1. RIGHT OF ACCESS 6 WIDE CREATED
IN D.P. 686026



Plan Drawing only to appear in this space

SCHEDULE OF MGA COORDINATES				
MARK	MGA CO-ORDINATES	ZONE	ACC	CLASS/OBJECT
EASTING	NORTHING			
PM 75897	555213.201	894008.845	56	3 B U
SSM 80130	555457.711	894941.690	56	3 B U
SSM 84242	555442.303	886487.392	56	4 C U

COMBINED SEA LEVEL AND SCALE FACTOR 0.9999356
SOURCE:- MGA CO-ORDINATES ADOPTED FROM S.C.I.M.S. AT 10/01/2003

TABLE OF SHORT TAKES				
NO.	BEARING	DIST.	AREA	CLASS
1	9° 10' 20"	70		
2	39° 08' 05"	43.053		
3	23° 34' 05"	26.995		
4	350° 48' 05"	59.735		
5	355° 34' 05"	65.13		
6	355° 34' 05"	34.894		
7	355° 34' 05"	34.894		
8	23° 45' 05"	83.83		
9	23° 45' 05"	83.83		
10	33° 49' 05"	61.805		
11	69° 29' 05"	77.605		
12	28° 58' 05"	159.745		
13	28° 58' 05"	159.745		
14	9° 12' 05"	274.415		
15	314° 04' 00"	109.37		
16	328° 30' 05"	49.92		
17	328° 30' 05"	49.92		
18	56° 30' 05"	292.445		
19	326° 15' 00"	54.83		
20	56° 30' 05"	77.93		
21	255° 12' 10"	22.53		
22	255° 12' 10"	22.53		

COMPARISONS
'X - Y' 9°09'40" 1182.79 ME
'X - Y' 0°02'00" 1182.87 88250-1759
'X - Y' 99°08'35" 840.02 ME
'X - Y' 90°08'00" 640.31 7892-1759

CONNECTIONS
PM 75897 TO SSM 80130 15°38'45" 906.867 MGA GROUND
15°38'45" 906.85 ME
SSM 80130 TO SSM 84242 187°40'37" 115.394 MGA GROUND
187°40'38" 115.394 ME
PM 75897 TO SSM 84242 16°48'06" 792.859 MGA GROUND
16°48'06" 792.845 ME

RIGHT OF CARRIAGEWAY 10 WIDE
EASEMENT FOR SERVICES 3 WIDE (D.P. 1009550)
UP DENOTES LINE PEGS

MP RETAINED 2007

Crown Land Office Approval
PLAN APPROVED: _____
Authorised Officer: _____

Land Owner: _____
Authorised Officer: _____

Subdivision Certificate
This plan is approved for the purposes of the Surveyors Act 1976 and the Surveyors Regulation 1976 and is intended to create :-
(delete "restrictions" or "rights")
"Authorised Person": _____
Date of endorsement: 12 July 2003
Authorisation No.: _____
Subdivision Certificate No.: 300/10000

This plan is to be used for the purposes of the Surveyors Act 1976 and the Surveyors Regulation 1976 and is intended to create :-
1. RESTRICTION ON USE OF LAND
2. RIGHT OF CARRIAGEWAY 10 WIDE
3. WIDTH
TO RELEASE :-
1. RIGHT OF ACCESS 6 WIDE CREATED IN D.P. 686026

DATE: 12 July 2003
SUBDIVISION CERTIFICATE NO. 300/10000

THIS PLAN IS TO BE USED FOR THE PURPOSES OF THE SURVEYORS ACT 1976 AND THE SURVEYORS REGULATION 1976 AND IS INTENDED TO CREATE :-

1. RESTRICTION ON USE OF LAND
2. RIGHT OF CARRIAGEWAY 10 WIDE
3. WIDTH
TO RELEASE :-
1. RIGHT OF ACCESS 6 WIDE CREATED IN D.P. 686026

DATE: 12 July 2003
SUBDIVISION CERTIFICATE NO. 300/10000

THIS PLAN IS TO BE USED FOR THE PURPOSES OF THE SURVEYORS ACT 1976 AND THE SURVEYORS REGULATION 1976 AND IS INTENDED TO CREATE :-

1. RESTRICTION ON USE OF LAND
2. RIGHT OF CARRIAGEWAY 10 WIDE
3. WIDTH
TO RELEASE :-
1. RIGHT OF ACCESS 6 WIDE CREATED IN D.P. 686026

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

07 [EO-OC] Creation of Easement to Drain Water 4 Metres Wide - Lot 22 DP 617126 - 26 Wollumbin Street, Tyalgum

ORIGIN:

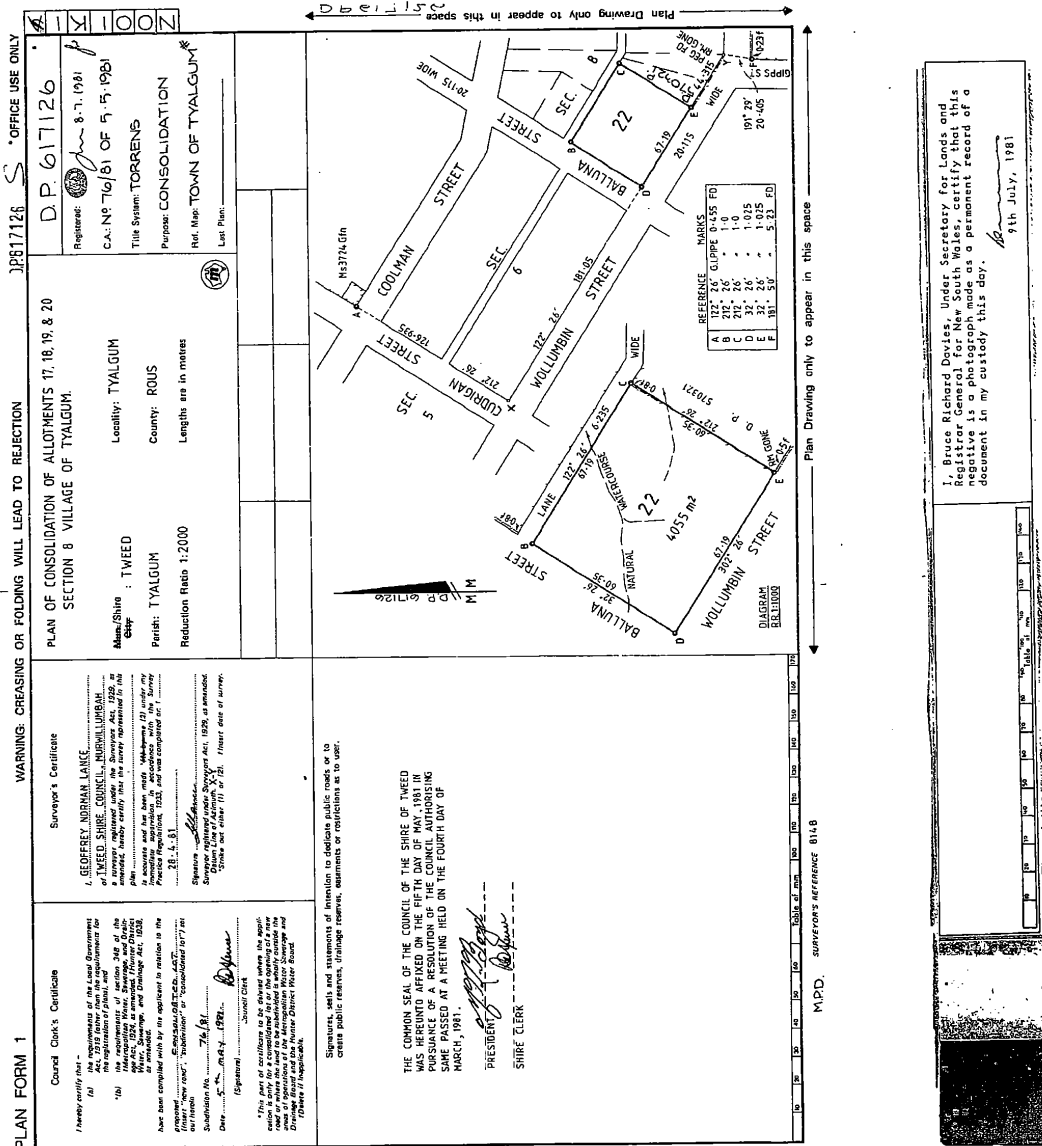
Design

SUMMARY OF REPORT:

At its meeting held on 7 February, 2006 Council received a report relating to the sale of the subject land. The land was listed with two agents in Murwillumbah. An offer was made on the land over and above the listing price, this offer was accepted and Contracts were exchanged on 12 May 2006.

Prior to exchange of Contracts, Council inserted a special condition in the Contract providing that prior to settlement an Easement for Drainage 4 metres wide was to be created over the natural watercourse that dissects the property.

The Deposited Plan below clearly shows the watercourse:-



RECOMMENDATION:

That:-

- Council approves the creation of an Easement for Drainage 4 metres wide burdening Lot 22 in DP 617126 benefiting Council;
- All necessary documentation be executed under Common Seal of Council.

REPORT:

There had always been an intention to retain ownership of the watercourse as a great part of the stormwater in the vicinity is naturally directed toward it.

At a meeting held on 16 July 2003, Council received a report relating to the acquisition of Crown Land for the Tyalgum Pre School, and that such acquisition was to be funded from the proceeds of the sale of part of Lot 22.

The 16 July report resolved that Council:

- "1. Proceeds to purchase Lot 110 DP 728119 Carraboi Terrace, Tyalgum*
- 2. Proceeds to re subdivide Lot 22 DP 617126 Wollumbin Street, Tyalgum so as to retain the watercourse in Council ownership"*

In subsequent reports (17 March 2004 and 18 August 2004) relating to the sale of Lot 22, there was discussion relating to the subdivision potential of the land and the associated costs. When an offer was made on the land (that did not proceed to sale) the offer was accepted on the basis that the cost of subdivision would not be justified for the potential price to be obtained from subdivided parcels.

A plan creating the Easement has now been prepared and it is necessary to sign the plan as landowner, under common seal.

The proposed Plan of Easement is shown below:-

PLAN FORM 2

OFFICE USE ONLY

Regulation: ...

C.A.: ...

Title System: ...

Purpose: ...

Ref. Map: TOWN OF TYALGUM

Last Plan: ...

PLAN OF EASEMENT FOR DRAINAGE OF WATER 4 WIDE WITHIN LOT 22 DP617126

Lengths are in metres. Reduction Ratio 1 : 500

LGA: TWEED

Locality: TYALGUM

Parish: TYALGUM

County: ROUS

This is sheet 1 of my plan in (under-division) sheets.

I, COLIN JOHN LUTTON Surveyor, Cert. No. 401 of TWEED SHIRE COUNCIL do hereby certify that the survey represented in the attached plan was made in accordance with the provisions of the Survey Act 2002, and was conducted on 27/07/2006. The survey relates to: EASEMENT ONLY.

Drawn like "A", "B", "C" (DP617126)

Scale: 1:500

Plans used in preparation of survey/compilation: DP617126

PANEL FOR USE ONLY for statements of intention to dedicate public roads or to create easements. This panel contains the conditions on the title of land or positive covenants.

PURSUANT TO SECTION 88B OF THE CONVEYANCING ACT 1919-44 IT IS INTENDED TO CREATE:-

EASEMENT FOR DRAINAGE OF WATER 4 WIDE

MARK	PLATON	CO-ORDINATES	H CLASS	H ORDER	C S F
SSM41705	502424083	66827222	C	U	0.999996

PLAN DRAWING ONLY TO APPEAR IN THIS SPACE

SSM41705 FD (NOT EST)

SSM41705 - SSM93598 195°11'40", 226.88

SSM41705 FD (NOT EST)

SSM93598 FD (NOT EST)

WARNING: CREASING OR FOLDING WILL LEAD TO REJECTION

PLAN FORM 2

SIGNATURE AND SEALS ONLY

THE COMMON SEAL OF TWEED SHIRE COUNCIL WAS HERETO AFFIXED ON ... IN PURSUANCE OF A RESOLUTION PASSED AT ITS MEETING HELD ON ...

ADMINISTRATOR

GENERAL MANAGER

Department of Land Approval (Authorised Officer) ... in accordance with the provisions of the Survey Act 2002, and was conducted in accordance with the provisions of the Survey Act 2002.

Subdivision Certificate

I certify that the contents of a 100% of the Instrumental Particulars and Subdivision Certificate are correct and true to the original plan and that the plan is a true and correct copy of the original plan.

Date of endorsement: ...

Subdivision Certificate No. ...

The No. of the plan to be lodged electronically to the Land Title Office is ...

When the plan is to be lodged electronically to the Land Title Office, it must be accompanied by an electronic or digital format approved by the Registrar-General.

1. Check whether it is applicable

SURVEYING REFERENCE: 0106

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

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O8 [EO-OC] Easement to Drain Water 3.5 metres wide - Lot 12 DP 1092500 - Terranora Road, Terranora

ORIGIN:

Design

FILE NO: DA02/1159 Pt8

SUMMARY OF REPORT:

Following the final practical completion inspections of a 54 lot rural subdivision at Terranora, it was noted that it was necessary for the developer to construct field inlets to collect overland stormwater over Lot 12 and to direct the water into Council's road drainage system. These field inlets protect bus shelters and the footway fronting Lot 12.

As the necessity for the field inlets arose subsequent to the issue of consent and preparation of the subdivision plans, the easement is now being created by the registration of a Transfer Granting Easement, with Council as the Transferee as Council will have the benefit of the Easement.

As the benefiting authority of the easement, it is necessary for Council to sign the Transfer document under common seal, requiring a resolution to do so.

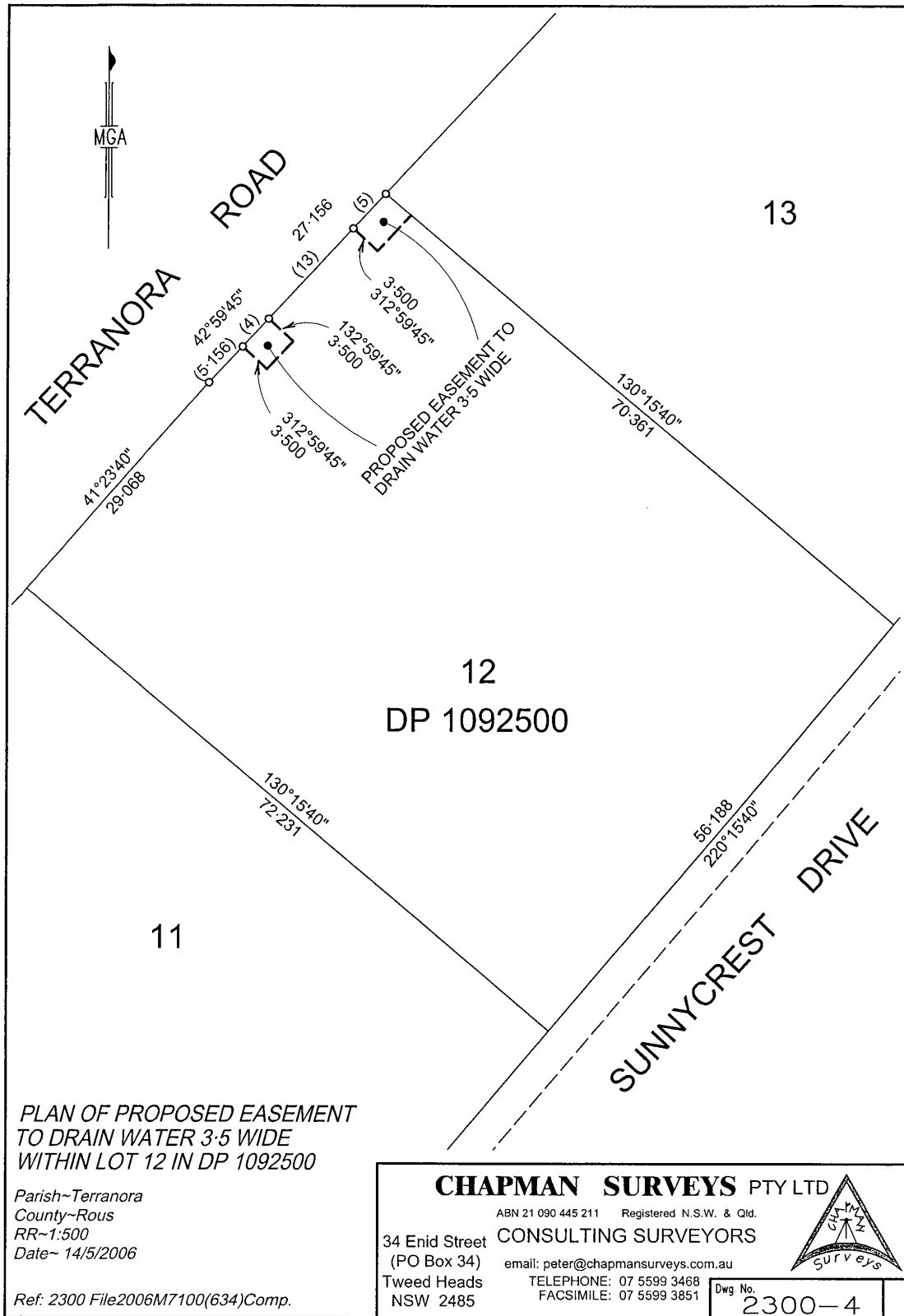
RECOMMENDATION:

That:-

- 1. Council approves the creation of an Easement to Drain Water 3.5 metres wide in Council's favour burdening Lot 12 in DP 1092500; and**
- 2. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

As per Summary of Report, the plan showing the location of the proposed Easement is shown below:-



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

**09 [EO-OC] Land Acquisition for Road & Compensation Purposes -
McConnells Road, Dunbible**

ORIGIN:

Design

FILE NO: R3180

SUMMARY OF REPORT:

The formation of McConnells Road at Dunbible encroached onto adjacent land and the affected landowner requested Council to remedy the situation by acquiring the land where the road formation was located and to close the unused road reserve. A survey plan has been prepared and registered under the Roads Act, 1993 for the acquisition of Lot 2 in DP 1081912 for dedication as road and the acquisition of Lot 1 as public road to be closed and transferred to the affected landowner for compensation purposes.

The acquisitions are to proceed under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991 whereby an application is to be made to the Department of Local Government for approval to the acquisition.

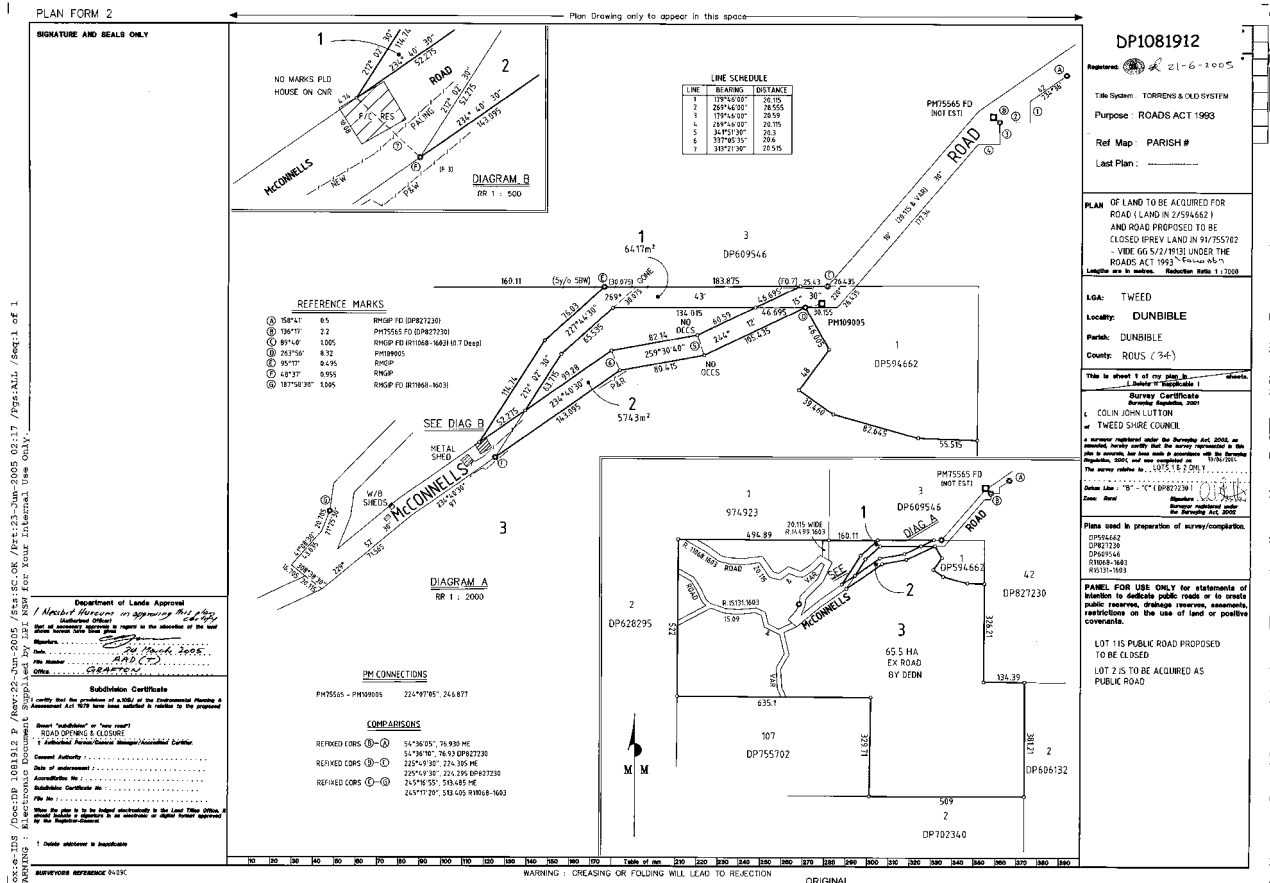
RECOMMENDATION:

That:-

- 1. Council approves the acquisition of Lot 2 in DP 1081912 for public road and the acquisition of Lot 1 in DP 1081912 for compensation purposes under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor;**
- 2. Lot 2 in DP 1081912 be dedicated as road following gazettal of the acquisition; and**
- 3. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

DP 1081912, shown below, shows the parcels subject of this report:-



LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

Nil.

O10 [EO-OC] Land Acquisition of Crown Land & Creek Bed for Road Purposes - Cudgen Creek, Kingscliff

ORIGIN:

Design

SUMMARY OF REPORT:

To enable the construction of the bridge and cycleway over Cudgen Creek at Kingscliff it is necessary to acquire an area of Crown Land, being partly foreshore land and an area of creek bed. A survey plan has been prepared and registered under the Roads Act, 1993 for the acquisition of Lot 1 in DP 1095491 for dedication as road.

The Department of Lands has concurred the acquisition.

The acquisition is to proceed under the provisions of the Land Acquisition (Just Terms Compensation) Act, 1991 whereby an application is to be made to the Department of Local Government for approval to the acquisition.

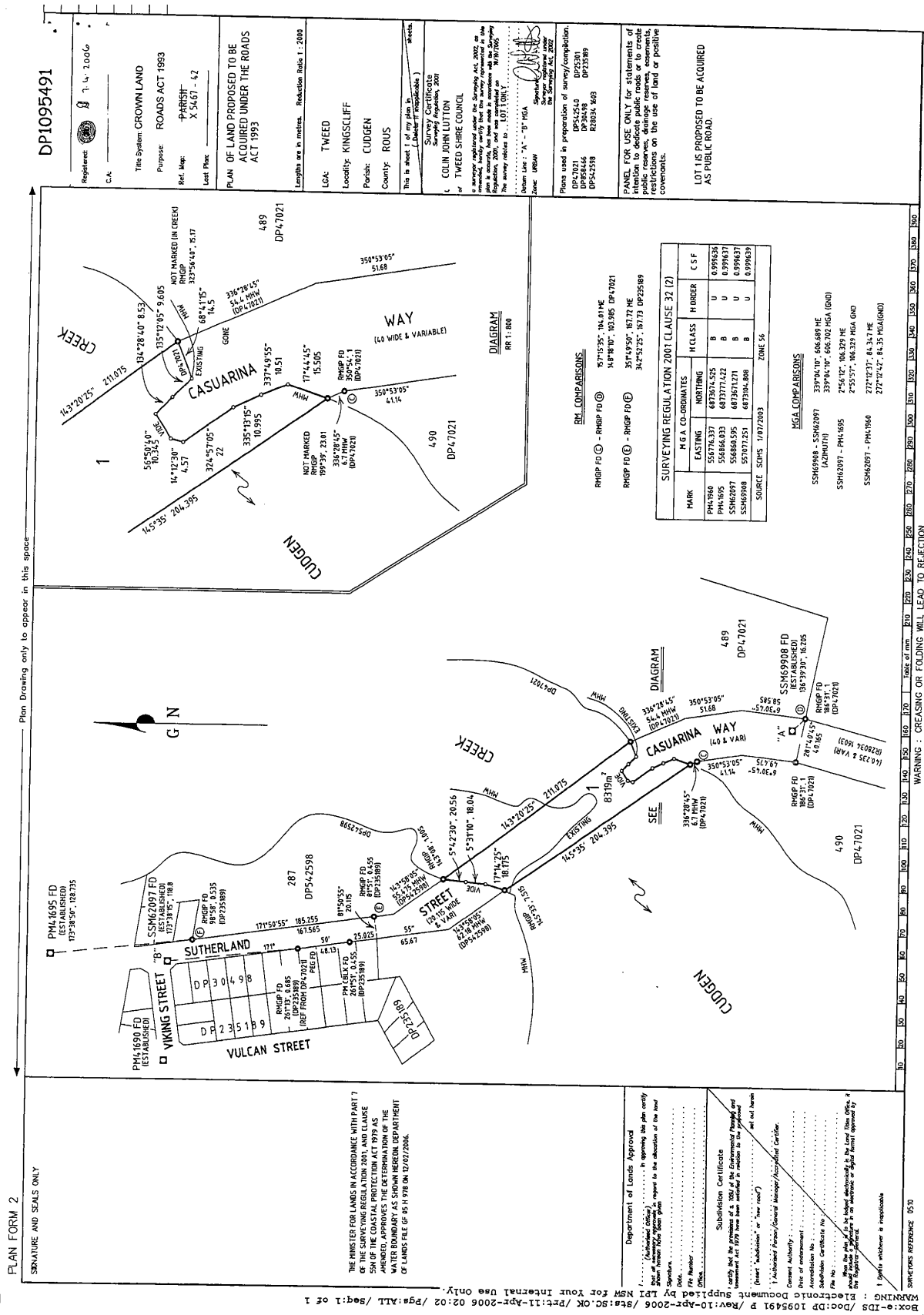
RECOMMENDATION:

That:-

- 1. Council approves the acquisition of Lot 1 in DP 1095491 for public road under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor;**
- 2. Lot 1 in DP 1095491 be dedicated as road following gazettal of the acquisition; and**
- 3. All necessary documentation be executed under the Common Seal of Council.**

REPORT:

DP 1095491, shown below, shows the parcel subject of this report:-



PLAN OF LAND PROPOSED TO BE ACQUIRED UNDER THE ROADS ACT 1993

Lengths are in metres. Reduction Ratio 1 : 2000

LEGAL: TWEED
 Locality: KINGSCLIFF
 Parish: CUDDEN
 County: ROUS

This is sheet 1 of my plan in accordance with the Survey Act 2002

Survey Certificate No. 15505
 Surveying Register No. 2001
 Surveyor: COLIN JOHN LUTTON
 Surveyor registered under the Survey Act 2002 in New South Wales, having certified that the survey represented in this plan is true and correct in accordance with the Survey Act 2002 and was completed on 18/10/2005.

The survey relates to: 15711001
 Locum Loc: "A" - "B" - HGA
 Zone: MGRN

Plans used in preparation of survey/compilation:
 DP542598
 DP856446
 DP34529
 DP542598
 R28304.563
 DP542598

PANEL FOR USE ONLY for statements of intention or to create public reserves, drainage reserves, or restrictions on the use of land or positive covenants.

LOT 1 IS PROPOSED TO BE ACQUIRED AS PUBLIC ROAD.

MARK	M & A CO-ORDINATES	H CLASS	H ORDR	C S F
PH41910	EASTING: 557463.37	NORTHING: 687374.235	B	U
PH41685	558728.72	687377.422	B	U
SSH62097	558668.532	687377.422	B	U
SSH69508	557072.251	687374.235	B	U

MARK	M & A CO-ORDINATES	H CLASS	H ORDR	C S F
SSH69908	557463.37	NORTHING: 686.689 ME	B	U
SSH62097	558668.532	686.702 HGA (RD)	B	U
SSH62097	557072.251	686.329 ME	B	U
SSH62097	557072.251	686.329 HGA GND	B	U
SSH62097	557072.251	686.329 HGA GND	B	U
SSH62097	557072.251	686.329 HGA GND	B	U

PLAN FORM 2
SIGNATURE AND SEALS ONLY

THE MINISTER FOR LANDS IN ACCORDANCE WITH PART 7 OF THE SURVEYING REGULATION 2001, AND CLAUSE 50N OF THE COASTAL PROTECTION ACT 1979 AS AMENDED, APPROVES THE DETERMINATION OF THE WATER BOUNDARY AS SHOWN HEREON. DEPARTMENT OF LANDS FILE OF 4511978 ON 12/07/2006.

Department of Lands Approval
 I, Colin John Lutton in approving this plan certify that all measurements shown in regard to the delineation of the land parcels are correct in accordance with the Survey Act 2002.

Subdivision Certificate
 I certify that the portions of A. 1001 of the Government of New South Wales Act 1979 have been identified in relation to the proposed subdivision in accordance with the Survey Act 2002.

General Authority: ...
 Date of endorsement: ...
 Subdivision Certificate No: ...
 File No: ...
 I have made a copy of this plan available for inspection at the Surveying Register.

Surveyors Reference: 0510

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

The cost of purchasing this land is estimated at \$5,000. Funding has been voted for the construction of this bridge in the 2006/2007 budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O11 [EO-OC] Closure of Pathway - 17-19 Moss Street, Kingscliff

ORIGIN:

Design

FILE NO: GR3/12/6 Pt3

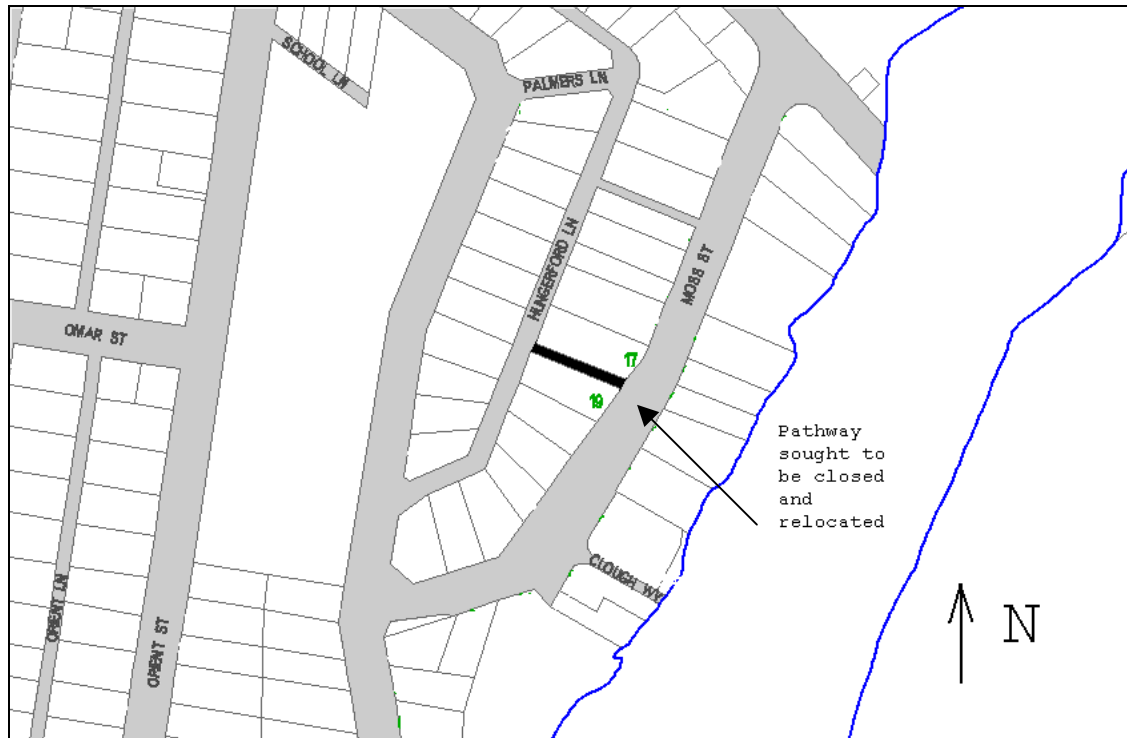
SUMMARY OF REPORT:

An application to close and purchase a pathway dedicated in DP 21680, registered in 1949, was made by the owner of the parcels flanking each side of the pathway. The pathway is not formed, however, it provides access from Hungerford Lane to Moss Street. The pathway meets Moss Street on a bank that falls steeply and requires steps to provide any physical access.

When the initial application was made, Council sought submissions from landowners that would supposedly use the pathway to access Moss Street should steps ever be formed and on this basis, there was strong community objection to the closure. On this basis, Council advised that it would not approve the closure of the pathway, but would consider the relocation of the pathway either to the north boundary of Lot 14 (number 17) or to the southern boundary of Lot 15 (number 19) should the owners of the neighbouring parcels agree to the location of the pathway to their boundaries. Council requested that the applicant seek such consent and forward same to Council, no consents from the applicant were ever received.

A subsequent development application was made by the original applicant for a multiple dwelling development over Lots 14 and 15 incorporating the relocation of the pathway, construction of the pathway and utilisation of the pathway as vehicular access to the development.

The plan below shows the location of the subject pathway and adjacent parcels:



RECOMMENDATION:

That:-

1. Council approves the compulsory acquisition of pathway created in DP 21680 and the acquisition of proposed Lot 2 for road purposes under the provisions of the Land Acquisition (Just Terms Compensation) Act 1991 for the purposes of the Roads Act, 1993 and the making of the necessary application to the Minister and/or Governor;
2. Lot 2 be dedicated as road following gazettal of the acquisition;
3. Lot 1 be consolidated with Lot 15 DP 21680, and
4. All necessary documentation be executed under the Common Seal of Council.
5. All costs are to be borne by the owner of Lot 14 DP 17606 and Lot 15 DP 21680.

REPORT:

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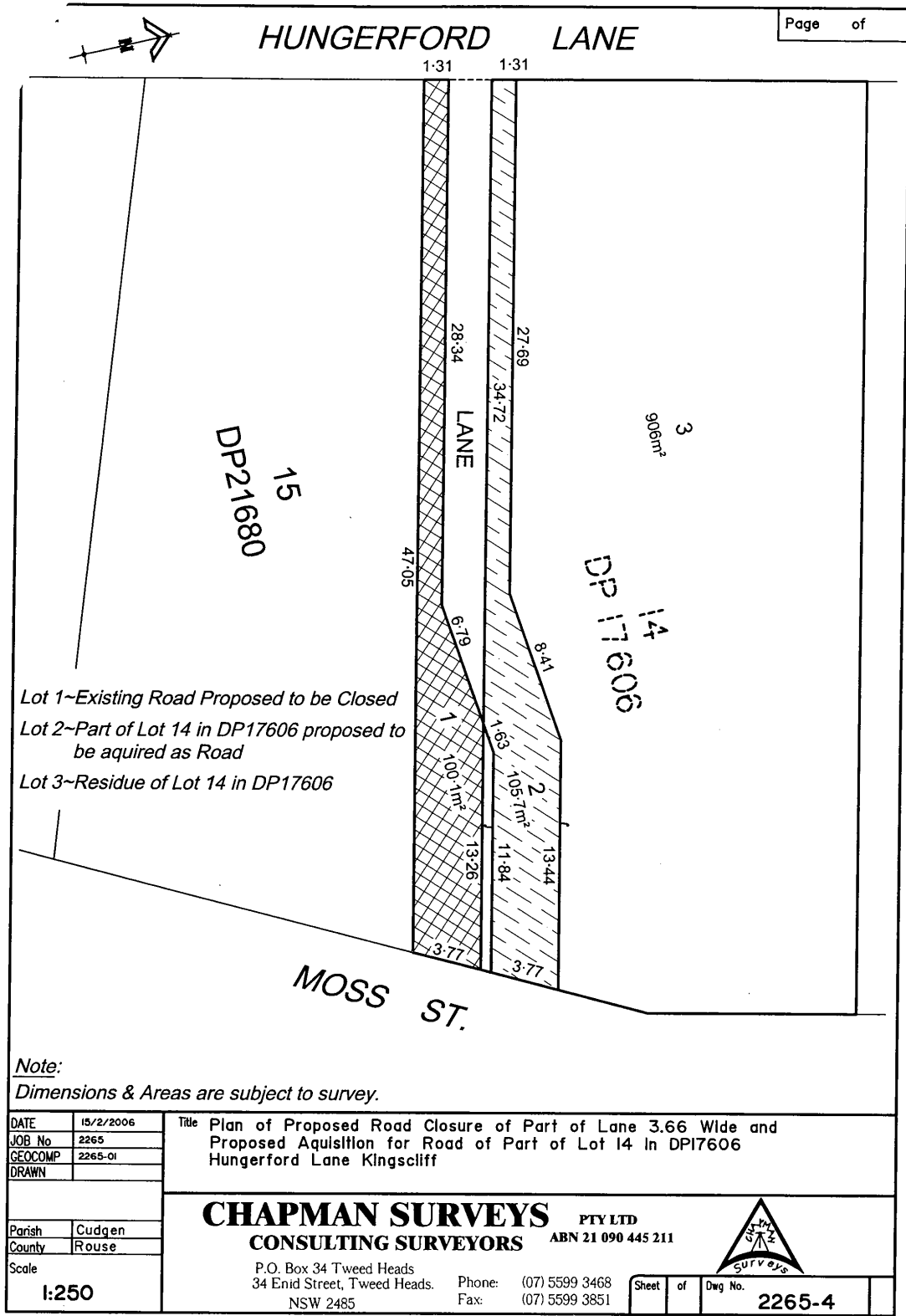
At its meeting of 7 February 2006 Council received a report recommending approval for the development with recommended conditions be used as a basis for a Consent Order in the Land & Environment Court.

The hearing in the Land & Environment Court resulted in the granting of approval in accordance with the Consent Orders negotiated between Council and the proponent. The consent orders have now issued from the Court.

The approval provides for a deferred commencement whereby prior to the consent becoming operative the proponent must comply with matters set out in Schedule A of the consent.

Schedule A refers to the 'boundary adjustment' between the parcels and the pathway by way of a road closure by gazettal and dedication of pathway with a restriction as to user requiring the maintenance of the pathway to be the responsibility of the unit owners having the benefit of the driveway under the consent.

The plan below shows the current location of the pathway as Lot 1, including the area marked "Lane" and the proposed pathway/driveway as Lot 2, including the area marked "Lane". The ultimate pathway will have a kink approximately 12 metres from Moss Street.



The definition of a "road" in the Dictionary of the *Local Government Act, 1993* includes "pathway", therefore the closure of the pathway can be achieved in two ways:-

1. An application can be made by any person under section 34 of the *Roads Act, 1993*, which requires an application to be made to the roads authority, Council in this instance. Should the roads authority approve the road closure then an application is made to the Department of Lands on behalf of the applicant, as the Department of Lands only deal with the roads authority for such applications.

The Department processes the application and advertises the proposed road closure with a 28 day submission period within which any objections are to be lodged and adjacent landowners are advised of the proposal. Should no valid objections arise, then the Department requests a plan of road closure to be prepared and registered. Upon registration of the plan, the Department publishes a notice effecting the road closure. This process can take up to 2 years.

2. The alternate process of road closure and dedication is the process generally utilised by Council following road works where land is acquired for road purposes and parts of the road reserve are acquired for the purposes of compensation. Section 41 of the *Roads Act* provides that:-

"a public road that is compulsorily acquired.....ceases to be a public road as a consequence of its compulsory acquisition"

In this process a plan of acquisition is prepared and registered whereby the parcels to be acquired have been created and then an application to the Department of Local Government is made seeking the approval of the Governor to the acquisition of those parcels. It would be necessary to show that such an acquisition, on the face of it benefiting the developer, would have some public benefit. Such applications generally take between 6 and 9 months to complete.

During discussions relating directly to the closure of the pathway with the proponent, it was mentioned that there may be the possibility that the compulsory acquisition of part of the pathway and part of his adjacent land by Council on his behalf may be available to him should Council approve to do so, and should the acquisition be subsequently approved by the Governor.

The proponent has provided a written request to Council to pursue the compulsory acquisition on his behalf, noting that he is conditioned in the development consent to construct a pathway/driveway with sufficient drainage and stairs and railings at Moss Street with appropriate signage stating "Public Walkway to Moss Street". The proponent has advised he will cover all costs relating to the acquisition.

Such an acquisition would give effect to the boundary adjustment required by the consent and enable it to become operative.

In light of the public benefit that would result in the construction of the pathway and the potential delay of provision of that benefit should the proponent pursue the road closure pursuant to section 34, it is recommended that it be resolved to approve the compulsory acquisition of the pathway on behalf of the proponent, at his cost.

Should Council decide to approve the compulsory acquisition of the land on behalf of the proponent, an application will be made to the Minister to seek the Governor's approval to the acquisition following registration of the plan of acquisition.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

*To view any "**non confidential**" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).*

Nil.

O12 [EO-OC] EC2006-051 Supply and Delivery of Tyres & Tubes, Recapping, Relugging & Retreading of Tyres and Repairs of Tyres & Tubes

ORIGIN:

Works

FILE NO: EC2006-051

SUMMARY OF REPORT:

Tenders closing Wednesday 3 May 2006 were invited for the supply and delivery of tyres & tubes, recapping, relugging & retreading of tyres and repairs of tyres & tubes for a period of two (2) years.

After an analysis of the submissions the assessment group unanimously agreed that it would be prudent management for Council to enact Clause 16 of the Conditions of Tendering, [*The Council shall not be bound to accept the lowest or any tender, nor will the Council be responsible for, expenses or losses which may be incurred by any tenderer in the preparation of his tender*] and Clause 17 of the Tendering Conditions, [*Any Tender which does not comply in every respect with the requirements of the Tender Document, may be rejected*] and not to accept any tender.

RECOMMENDATION:

That:-

- 1. Due to the non-conformity and considered unsuitability of prices submitted to tender EC2006-051 that no action be taken on the determination of this tender.**
- 2. The contract for the Supply of Tyres and Tubes, Recapping, Relugging and Retreading of Tyres and Repairs of tyres and Tubes be revised and readvertised.**

REPORT:

Tenders for EC2006-051, closing Wednesday 3 May 2006, were invited for the supply and delivery of tyres & tubes, recapping, relugging & retreading of tyres and repairs of tyres & tubes. The tenderers are listed below: -

Tenderers:

Millard Tyre Centre Mayfield Street Murwillumbah
Beaupaires Tyre Service Prospero Street Murwillumbah

Tenders are analysed in a separate confidential attachment.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funds have been voted in the current 2005/2006 budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. **Supplementary Confidential Attachment** EC2006-051 Supply and Delivery of Tyres & Tubes, Recapping, Relugging & Retreading of Tyres and Repairs of Tyres & Tubes. (DW 1416808).
-

O13 [EO-OC] EC2006-052 Supply of Lubricating Oils

ORIGIN:

Works

FILE NO: EC2006-052

SUMMARY OF REPORT:

Tenders closing Wednesday 3 May 2006 were invited for the supply of lubricating Oils.

As the previous tender is expiring this is a tender to replaces the existing tender.

After a due diligence analysis of the submissions the assessment group unanimously agreed that it would be prudent management for Council to enact Clause 16 of the Conditions of Tendering, [*The Council shall not be bound to accept the lowest or any tender, nor will the Council be responsible for, expenses or losses which may be incurred by any tenderer in the preparation of the tender*] and Clause 17 of the Tendering Conditions, [*Any Tender which does not comply in every respect with the requirements of the Tender Document, may be rejected*] and not to accept any tender and reoffer the tender.

RECOMMENDATION:

That:-

- 1. Due to the non-conformity and considered unsuitability of prices submitted to tender EC2006-052 that no action be taken on the determination of this tender.**
- 2. The contract for the Supply of Lubricating Oils be revised and re-advertised.**

REPORT:

Tender EC2006-052, closing Wednesday 3 May 2006, were invited for the supply of Lubricating Oils. The tenderers are listed below: -

Tenderers:

Valvoline (Australia) Durbell Street Acacia Ridge QLD
Gough & Gilmour Holdings Pty Ltd Pacific Highway South Grafton NSW 2461
Reliance Petroleum 701 Kingsford Smith Drive Hamilton
Reliance Petroleum 701 Kingsford Smith Drive Hamilton
Reliance Petroleum 701 Kingsford Smith Drive Hamilton

Tenders are analysed in a separate confidential attachment to this report.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Funds have been voted in the current 2005/2006 budget.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Supplementary Confidential Attachment EC2006-052 - Supply of Lubricating Oils (DW 1416541).
-

014 [EO-OC] EC2003-067 Supply of Bulk Fuels: Contract Extension

ORIGIN:

Contracts

FILE NO: EC2003-067

SUMMARY OF REPORT:

The current tender for the supply of bulk fuel to Council's Depots and Mobile Caravans and Tankers (EC2003-067) expires on the 30 June 2006.

Renewal of the fuel supply contract under EC2006-053 has been advertised and closed however evaluation of the pricing structure to apply to the new contract has been difficult to determine and will require more time to further assess the pricing structures submitted and investigate possible alternate contract supply options.

RECOMMENDATION:

That:-

- 1. Contract EC2003-067 for the Supply of Bulk Fuels to Council's Depots and Mobile Caravans and Tankers be extended for a further three (3) month period.**
- 2. The Acting Director Engineering & Operations be authorised to extend the period for up to 3 months.**

REPORT:

As per Summary of Report.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

1. Supplementary Confidential Information for EC2003-067 Supply of Bulk Fuels - Contract Extension (DW 1414456).
-

O15 [EO-OC] Burringbar Mooball Sewerage Scheme

ORIGIN:

Design

FILE NO: GS6/9 Bbar Pt 2

SUMMARY OF REPORT:

In recognition of the impact on public health of the inadequate on-site sewage systems in the Villages of Burringbar and Mooball, Council in 1995 commenced the process that would lead to the provision of a centralised sewerage collection, conveyancing and treatment system. The Burringbar Mooball Sewerage Scheme was one of 132 unsewered villages in the NSW Government's Country Towns Water Supply and Sewerage Program. In 1997 Council received subsidy for the investigation phase of the Scheme from the NSW Government.

In July 2003 Council commenced rating a special levy on the properties within the 2 villages on the basis that 70% of the scheme was to be funded from the NSW State Government. In 2004 the NSW Government made significant modifications to the funding arrangements and eligibility for projects under the Country Towns Water Supply & Sewerage Program. In February 2005 Council was advised by the Director General of DEUS that the Scheme was ranked below the level which attracted funding from the CTWS & S Program.

Following various requests and submissions from Council a recent advice has been received from the Minister for Utilities and the Department that the Burringbar - Mooball Sewerage Scheme will not receive funding under the Country Towns Water Supply and Sewerage Program. This has put the future of the Scheme in doubt.

RECOMMENDATION:

That Council:-

- 1. Advises the residents of the current status of this Scheme.**
- 2. Continues to pursue funding in 2006/2007.**
- 3. Considers the options presented in this report for the future of the Scheme.**
- 4. Reviews in detail the available options and makes a decision for the future of the Scheme before the 2007/2008 rate notices are issued.**

REPORT:

Background

Since 1995 concerns have been voiced that the present wastewater management systems in the villages of Uki, Burringbar and Mooball may pose health threats to the residents and contribute to the pollution of the adjacent waterways. At present the villages of Burringbar and Mooball generally rely on conventional on-site methods for the treatment and disposal of domestic wastewater. The existing on-site systems are operating unsatisfactorily due to the small block size and clay soils. A Water Quality Survey conducted by Council's Environment and Health Services Unit in November 1995 on the issues of public health and catchment management created by the on-site wastewater disposal in the villages validated these concerns.

In response to these concerns Council at its meeting of 18 December 1996 resolved to adopt the priority of providing a sewerage system to Uki village initially with Burringbar and Mooball villages to follow. The Uki Scheme was provided a higher priority as it is upstream of Council's water supply catchment.

Following the receipt (in April 1997) of concurrent financial assistance offers (grants under the NSW Government Country Towns Water Supply & Sewerage Program) for the investigation stage of the project for Burringbar and Uki schemes, Council resolved that the investigation works proceed concurrently including a preliminary investigation report, review of environmental factors, community consultation, geotechnical investigations and effluent reuse study. The Uki village Sewerage Scheme was commissioned in 2002.

To assist with project implementation and establish the community consultation process, Council in 1998 invited nominations through the Tweed Link from the Burringbar and Mooball community to be part of the Burringbar - Mooball Sewerage Community Reference Group. In October 1998 the first Reference Group meeting was held.

As part of the investigation stage of the project, the Department of Public Works and Services was commissioned to investigate the options for the improvement of the existing sewage disposal problems in the villages.

In July 2002 a Revised Options Report was completed. In August 2002 the Community Reference Group accepted the report and resolved to proceed with community consultation. The community consultation commenced on 5 November 2002. The Draft Revised Options Report was exhibited in the village over a three week period and was well accepted by the community at the time.

At its meeting of 18 December 2002 Council resolved to:-

1. Adopt the Draft Revised Options Report as a Final Options Report.
2. Proceed with the Environmental Study for the preferred option.
3. Commence levying a special rate on Burringbar and Mooball villages starting in 2003/2004.

4. Adopt a fixed term (10 years) levy of \$350.00 per tenement added to the sewer rate for those properties covered by the scheme.

The decision to proceed with the Scheme implementation was made based on a 70% government subsidy with the balance of 30% being shared equally between Council and the local community. At the time the Scheme estimate was \$3.4 million. On the 18 December 2002 Council also resolved to proceed with the purchase of land for the sewage treatment site at a cost of \$55,000.

In August 2003 HLA Environmental Consultants were engaged to prepare a Review of Environmental Factors for the Scheme and Effluent Reuse Options Study. In January 2005 the Review of Environmental Factors was finalised.

Following changes in the provision of government subsidy, the release of the Tweed Futures Report, and Integrated Catchment Management Initiatives, Council in 2004 resolved to review the Options Report for the Burringbar - Mooball Sewerage Scheme, prepared by the Department of Public Works & Services in 2002. In December 2004 GHD Consultants were engaged to undertake a Peer Review, which included a Burringbar - Mooball planning scoping study to determine the anticipated development and population of the surrounding areas. The reports were completed in November 2005 and confirmed the preference of the centralised sewerage option detailed in the 2002 Department of Public Works report. An alternative was provided at an additional cost for the installation of more sophisticated on-site sewage treatment systems (wet composting) combined with a common collection and treatment system for excess effluent. This option also has the advantage that effluent would be reused for irrigation on individual properties as a substitute for potable water.

Approximately \$250,000 has been spent to date on the project. The majority of the Burringbar - Mooball community are supportive of sewerage the villages with the exception of a small vocal group opposing the location of the proposed Sewage Treatment Plant site.

Funding

Country Towns Water Supply and Sewerage Program

In April 1997 Council received subsidy for the investigation phase of the Scheme from the NSW Government under the Country Towns Water Supply and Sewerage Program. In 2004 the NSW Government made significant modifications to the funding arrangements and eligibility for projects under the Country Towns Water Supply & Sewerage Program.

In February 2005 Council was advised by the Director General of DEUS that the Scheme was ranked below the level which attracted funding from the CTWS & S Program. Council at its meeting on 6 April 2005 resolved to write to the Minister for Energy Utilities and Sustainability requesting the government reconsider this scheme for funding due to the advanced stage of the project. A response was received which indicated the Scheme could not be funded.

Again at its meeting on 7 September 2005 Council considered a detailed report relating to the above Program, particularly referencing the strategy paper prepared jointly by the LGSA and NSW Water Directorate seeking the reinstatement of the funding.

Advice was received from the Minister for Water Utilities, Mr David Campbell, in a letter dated 19 June 2006 that provided no avenue for the project to be funded under the CTWS & S Program (DataWorks 1414170):-

SEWERAGE TREATMENT - B'BAR SEWERAGE TREATMENT - B'BAR - AUG STAGE
COURT GRANTS - SEWERAGE



David Campbell
Minister for Water Utilities
Minister for Small Business
Minister for Regional Development
Minister for the Illawarra

TWEED SHIRE COUNCIL
 FILE No. COURT GRANTS - WATER
 Doc No.
 REC'D 22 JUN 2006
 ASSIGNED TO OXENHAM, D
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DEUS Ref 05/2585, 06/79

Mr Mike Rayner
Acting General Manager
Tweed Shire Council
PO Box 616
MURWULIMBAH NSW 2484

19 JUN 2006

LINK TO 1373750

Dear Mr Rayner

I refer to Tweed Shire Council's letters regarding funding levels for the proposed Burringbar-Mooball Sewerage scheme.

In April 2005, Council was advised that the previous funding levels applicable to Small Town Sewerage schemes no longer applied because Tweed Shire Council was classified as a large water utility. The Department of Energy, Utilities and Sustainability had assessed that there would be a relatively small impact on residential rates if the project was funded by Council on a shire wide rating basis.

I have been advised that Council applied for re-ranking by the Inter-Agency Prioritisation Committee. The Committee is currently considering submissions and Council will be advised of the Committee's re-assessment once it is available.

Regarding Council's concern that a number of other Councils have had previous subsidy levels reinstated, I have been advised that each of those particular councils have turnover less than the new \$10 million per annum limit and the reduced subsidy would have increased the residential rates to over \$550 per annum.

Please contact Gary Marshall, Regional Manager North in the Department of Energy, Utilities and Sustainability on [02] 6653-0105, if you wish to discuss this matter further.

Thank you for bringing this matter to my attention.

Yours sincerely

David Campbell
Minister for Water Utilities
Minister for Small Business
Minister for Regional Development
Minister for the Illawarra

All correspondence to
GPO Box 5341, Sydney NSW 2001
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Level 36, Governor Macquarie Tower
1 Farrer Place, Sydney NSW
Ph (61-2) 9228 3777
Fax (61-2) 9228 3722

The current estimate for the project is \$4.7 million. Under the previous NSW Government funding arrangements there was an expectation that the Scheme would receive 70% funding for the Burringbar component and 50% funding for the Mooball

component from the CTWS&S. This equates to a shortfall in funding of approximately \$3.1 million.

Project Priority Within Tweed Shire

There are a number of identified localities within the shire with failing on-site sewage systems that have the potential to or are impacting on public health and water quality. Council over the last 20 years have addressed in partnership with the community and NSW Government these issues in the Villages of Tyalgum, Tumbulgum and Uki.

The Manager Environment and Health has provided a summary of the catchment priorities tabled below:-

Internal Memo Dated 27 June 2006:

"Further to the Manager of Environment and Health Services memo of the 23 May 2006 the following comments are provided below. Please note that the Environment and Health Services Unit list the villages of concern in order of priority in consideration of issues of public health and environmental impact.

1. Mooball/Burringbar

The Unit has previously undertaken a survey of these Villages. The Unit continues to strongly support the provision of sewerage infrastructure. Limited capacity to dispose of treated wastewaters on-site due to small lot size is considered a major factor even where quality of treatment is improved. Also currently effluent is discharged into Burringbar Creek which presents possible ongoing health implications.

2. Kiel Vale

As part assessment for a current development application lodged with Council recent preliminary site inspections of approximately 40% of the dwellings within the village of Kiel Vale was undertaken. The inspections revealed that almost all on-site sewage management systems were either failing or discharging directly to the rear of the properties onto an adjoining property, with or without primary treatment of wastewaters. The on-site limitations noted in the previous memo re Mooball/Burringbar are also reflected at Kiel Vale. As outlined, in consideration of the maximum loading capacity of each dwelling, most land parcels would have limited capacity to dispose of treated effluent on-site. Improving capacity would include each dwelling having to undertake extensive land reforming/landscaping and improving the quality of domestic wastewaters treated. These requirements would impose high financial costs to each residence and reduce availability of outdoor recreational areas.

3. Chillingham

Located adjoining the Rous River, land parcels within the Village are small and many are also flood-prone. On-site sewage management limitations also reflect those listed previously. On-site sewage management problems are on-going in the Village.

4. Parkes Lane

It is considered that the sewage management issues of Parkes Lane may be rectified with the future development of the local area."

Internal Memo Dated 23 May 2006:

The townships of Mooball & Burringbah are a high priority for installation of a reticulated sewage system or a decentralised system of sewage management. These townships are considered to have no other option for the treatment and disposal of household effluent. The main factors determining this high level of priority are,

- Size of dwelling allotments (less than 1000 square metres of land area)
- Concentration of dwellings in the area due to small allotment sizes
- Soils that are considered unsuitable for long term effluent application i.e. medium to heavy clays, (low permeability soils K_{sat} 0.06 – 0.5 m/d, dispersive soils low Sodium Adsorption ratios (SAR) that cause soils to disperse and reduce the long term acceptance ratio (LTAR) and soils classified as category 6 in AS1547/200.
- Age and design of existing systems (undersized primary tanks and land application areas), i.e. 2000 L tank with 12M absorption trench).
- Proximity to sensitive receiving environments (drainage lines and creeks).

While it is accepted that the townships of Stokers Siding and Bilambil Village may have similar on-site sewage limitations, the concentration of dwellings in these townships is not as great as Mooball / Burringbah and therefore not considered as high a risk with regard to Human Health and Environmental contamination issues.

The Parkes Lane / Market Parade locality in Terranora which has also been identified as having limitations for on-site sewage effluent application, is not considered to be as high a risk as Mooball / Burringbah. While the 2000 m² allotments are considered undersized for on-site sewage management systems (refer AS 1547/200) dwellings in the Parkes Lane / Market Parade locality do have limited options for on-site sewage management system improvement.



Geoff Edwards
Manager Environment and Health

Options

Four draft options are documented below for consideration in this report:-

1. Fund the shortfall in the Scheme, currently estimated at \$3.1 million from benefiting land owner contributions (approximately \$23,000 per lot). This would be difficult to implement and gain acceptance from the Burringbar and Mooball communities based on the previously accepted funding arrangements which required each lot to contribute \$350 per year for 10 years.
2. Abandon the existing Scheme and refund all or unspent contributions, with or without interest.

This would require major modification to the on-site sewage systems which in the majority of cases, if completed, would still not comply with Council's requirements in relation to the treatment and disposal of sewage. As advised by the Manager Environment & Health the lot size and soil type severely impact on the performance of an on-site sewage treatment and disposal system.

3. Proceed with implementation of the Scheme and fund the shortfall from the Sewer Fund. The Tweed community connected to Council's sewerage system will therefore subsidise the Scheme.

As advised in previous reports to Council the Sewer Fund is expected to require loans in the order of \$18 million to meet commitments other than the Burringbar Mooball Sewerage Scheme in the next 6 years.

4. Proceed with implementation of the Scheme with funding sourced from the Federal Government's Water Fund and Council's Sewer Fund.

An application has been submitted and advice expected late 2006 to early 2007 on the successful projects. The Water Smart Australia Program is a \$2 billion Australian Government Water Fund initiative designed to invest in water infrastructure and improved water management.

Because the Fund is intended to encourage innovation in water management the Burringbar - Mooball Scheme is potentially relevant as the proposed alternative option for this Scheme identified in the Peer Review sufficiently embraces integrated water management initiative and is perceived as an innovative scheme that improves water efficiency and environmental outcomes. The estimate for this alternative is currently \$6 million.

A submission requesting 50% funding for the Burringbar - Mooball Sewerage Scheme has been lodged with Water Smart Australia. If this application is successful Council would be required to fund \$3 million of the project cost.

CONCLUSION:

The above options 1 to 3 require additional investigation and discussion and may not be required if alternative funding is sourced such as a change to the NSW Government Country Towns Water Supply & Sewerage Program or the Australian Government Water Fund. It is proposed to provide a detailed review for options 1 to 3 once all avenues for alternative funding are exhausted.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

As per Report.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

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O16 [EC-OC] Three Year Funding for Major Festivals

ORIGIN:

Environment & Health

SUMMARY OF REPORT:

Council at its meeting held Wednesday 13 June 2006 resolved:

"that this item be deferred to the next meeting for further clarification"

While it is proposed to offer to a small number of major festivals within the Tweed the possibility of allocating three year funding support from Council to allow certainty for festival forward planning, this proposal if approved will not impact on Council's annual support for the smaller festivals and events.

RECOMMENDATION:

That Council endorses the proposal to provide three year funding towards major festivals subject to the criteria set out in this report.

REPORT:

Council at its meeting held Wednesday 13 June 2006 resolved:

"that this item be deferred to the next meeting for further clarification"

The report as reproduced below proposes three year funding be provided to a small number of major festivals to allow these festivals to plan in advance with some funding certainty. This allocation will be independent from the current allocation which is provided for the support of small festivals and events. Council's 2005/06 budget for festivals and events is \$35,000 while the 2006/07 budget funding is \$56,750, which includes funds should the funding for the major events be approved.

Previous Report:

Tweed Shire Council, through the Festival & Events Strategic Plan, is developing its support and assistance of the many festivals and events held annually around the Shire. As well as some festival funding there is assistance offered in areas of professional development such as market research, risk management training and business planning. Future opportunities for festival and event organising committee include professional training in event planning and operations, and participation in the growing cooperation and resource sharing across the region.

For major festivals in the Tweed that are attracting audiences of between 20,000 and 60,000 people, there are many new challenges in planning for future growth and sustainability, the introduction of multiyear funding to major festivals will assist them in their business planning and management. Small festivals and events will continue to be supported through the Council's festival funding. The Tweed is fortunate to have a community active in a broad range of festivals and events and Council recognises the importance of these activities to the quality of life and local economy.

This has been raised by festival organisers at meetings discussing the Festival & Events Strategic Plan with the Festival and Events Liaison Officer.

Wintersun Festival proposed this three year funding in a discussion with EMT at the end of 2005.

Main reason for the change is to allow the major festivals to plan in advance with three years of funding certainty and support from Council.

A business necessity for planning future festivals programs and marketing, particularly where national or international tourism is a major component.

There is pressure on the current level of festival funding with new festivals developing and other festivals growing strongly.

With this new separate funding, the Council's annual festival funding can stretch to cover more events, not competing with these few major festivals.

Criteria for 3 Year Funding

Funding Guidelines (adapted from the current Festivals policy document)

- *Only one application for three year funding per festival organisation or community group will be considered.*
- *Programs will not be funded retrospectively.*
- *Festivals must be held annually and the first of these commence within 12 months of funding.*

Criteria for 3 Year Funding (new)

- *The Festival has been successfully established in the community for more than five years.*
- *The Festival has an annual financial turnover of more than \$100,000.*
- *The Festival can demonstrate a significant tourism component and economic benefit to the Tweed Shire.*
- *Applications will be reviewed by the Festival and Events Committee (Cultural Advisory Committee) and recommendations made to Council.*

Reporting

Reporting Requirements Each Year

- *An Annual Report outlining in detail the activities undertaken by the festival.*
- *Annual Audited Accounts showing in detail the financial position within three (3) months of completion of the festival.*
- *A Review of the Business Plan outlining achievements, adjustments and any future developments.*
- *A Statement relating the Council's funding to the social and economic benefits of the festival to the Tweed Shire.*
- *Funding for Year 2 and Year 3 of the agreement will be forwarded once the Reporting Requirements have been received.*

Funding

Funding Agreement

- *A funding agreement signed between Council and the festival organisation will be required to cover the three years.*
- *This will outline the responsibilities of each party to the agreement.*

Funding Allocation

- *Maximum funding per individual festival is \$10,000 per annum for three years,*
- *a total of \$30,000.*
- *This is reflected in the Council's budget planning, starting with one festival and then possibly adding a festival each year.*
- *It is anticipated that no more than two or three major festivals will ever be funded concurrently.*

It is proposed to offer to the major festivals within the Tweed the possibility of allowing three year funding support from Council to allow certainty for festival forward planning.

This proposal includes a strict funding criteria which would limit the eligible festivals to a small number of festivals.

It is advised that Council's present Budget allocation towards festival funding is \$56,750 (an increase from \$35,000 in the previous year). An allocation of \$10,000 to be allocated to Wintersun for three years (if they meet the criteria) and the remainder distributed according to the Festivals Policy.

Background

Tweed Shire Council, through the Festival & Events Strategic Plan, is developing its support and assistance of the many festivals and events held annually around the Shire. As well as some festival funding there is assistance offered in areas of professional development such as market research, risk management training and business planning. Future opportunities for festival and event organising committee include professional training in event planning and operations, and participation in the growing cooperation and resource sharing across the region.

For major festivals in the Tweed that are attracting audiences of between 20,000 and 60,000 people, there are many new challenges in planning for future growth and sustainability, the introduction of multiyear funding to major festivals will assist them in their business planning and management. Small festivals and events will continue to be supported through the Council's festival funding. The Tweed is fortunate to have a community active in a broad range of festivals and events and Council recognises the importance of these activities to the quality of life and local economy.

This has been raised by festival organisers at meetings discussing the Festival & Events Strategic Plan with the Festival and Events Liaison Officer.

Wintersun Festival proposed this three year funding in a discussion with EMT at the end of 2005.

Main reason for the change is to allow the major festivals to plan in advance with three years of funding certainty and support from Council.

A business necessity for planning future festivals programs and marketing, particularly where national or international tourism is a major component.

There is pressure on the current level of festival funding with new festivals developing and other festivals growing strongly.

With this new separate funding, the Council's annual festival funding can stretch to cover more events, not competing with these few major festivals.

Criteria for 3 Year Funding

Funding Guidelines (adapted from the current Festivals policy document)

- Only one application for three year funding per festival organisation or community group will be considered.
- Programs will not be funded retrospectively.
- Festivals must be held annually and the first of these commence within 12 months of funding.

Criteria for 3 Year Funding (new)

- The Festival has been successfully established in the community for more than five years.
- The Festival has an annual financial turnover of more than \$100,000.
- The Festival can demonstrate a significant tourism component and economic benefit to the Tweed Shire.
- Applications will be reviewed by the Festival and Events Committee (Cultural Advisory Committee) and recommendations made to Council.

Reporting

Reporting Requirements Each Year

- An Annual Report outlining in detail the activities undertaken by the festival.
- Annual Audited Accounts showing in detail the financial position within three (3) months of completion of the festival.
- A Review of the Business Plan outlining achievements, adjustments and any future developments.
- A Statement relating the Council's funding to the social and economic benefits of the festival to the Tweed Shire.
- Funding for Year 2 and Year 3 of the agreement will be forwarded once the Reporting Requirements have been received.

Funding

Funding Agreement

- A funding agreement signed between Council and the festival organisation will be required to cover the three years.
- This will outline the responsibilities of each party to the agreement.

Funding Allocation

- Maximum funding per individual festival is \$10,000 per annum for three years,
- a total of \$30,000.
- This is reflected in the Council's budget planning, starting with one festival and then possibly adding a festival each year.
- It is anticipated that no more than two or three major festivals will ever be funded concurrently.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Festival Policy

UNDER SEPARATE COVER/FURTHER INFORMATION:

To view any "non confidential" attachments listed below, access the meetings link on Council's website www.tweed.nsw.gov.au or visit Council's offices at Tweed Heads or Murwillumbah (from Friday the week before the meeting) or Council's libraries (from Monday the week of the meeting).

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O17 [EC-OC] 2006/2007 DADHC - Grant Funding Agreement

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

A letter has been received from the Department of Ageing Disability and Home Care (DADHC) notifying Council that funding for Tweed Shire Council's Community Options and Community Worker (Aged & Disability) can be renewed for a further 12 months (1 July 2006 to 30 June 2007). Funding is for \$444,920 in total and dependent on the return of signed Agreement.

RECOMMENDATION:

That Council:-

- 1. Accepts the funding of \$444,920 and signs the necessary documentation under seal.**
- 2. Votes to expend the funds according to the Contract.**

REPORT:

A letter has been received from the Department of Ageing Disability and Home Care (DADHC) notifying Council that funding for Tweed Shire Council's Community Options and Community Worker (Aged & Disability) can be renewed for a further 12 months (1 July 2006 to 30 June 2007). Funding is for \$444,920 in total and dependent on the return of signed Agreement.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O18 [EC-OC] Estimated Cost for Beach Lifeguard Patrol

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

Council has requested a report on the cost for a single lifeguard patrol service which is difficult to estimate due to any number of variable factors; however under the assumptions in the body of this report it is estimated that the ongoing wages cost would be \$3,900 per week plus a one off equipment/uniform cost of \$1,500.

RECOMMENDATION:

That this report be received and noted.

REPORT:

Council has resolved that a report be prepared on the per unit cost for a single lifeguard patrol service. In preparing this costing the following assumptions have been made:-

1. The patrol is for a 7 day period.
2. The patrol consists of 2 lifeguards on duty.
3. Four (4) lifeguards are involved as 2 cannot work continuously.
4. Supervisor/Administration equals 20% wages.
5. For weekend work Council pays a penalty of 25% Saturday and 50% Sunday.

Wages Mon to Fri = \$19.63/hour x 38 hours x 2 = \$1,491.88 + On Costs 40%= \$2,088.63
Wages Sat = \$19.63/hour x 15.2 = \$298.38 x 25% = \$372.98 + On Cost 40% = \$522.17
Wages Sun = \$19.63/hour x 15.2 = \$298.38 x 50% = \$447.57 + On Cost 40% = \$626.60
Total **\$3,237.40**

Supervisor/Administrator 20% \$647.48

Ongoing Weekly cost **\$3,884.88**

As well there would be a one off allowance for uniform and equipment per yearly patrol of \$1,500.00

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O19 [EC-OC] Tweed Heads Town Centre Civic Precinct Committee

ORIGIN:

Director Environment & Community Services

FILE NO: GT1/LEP/2000/64 Pt1

SUMMARY OF REPORT:

A planning exercise is being undertaken to review uses and traffic management at the Civic Precinct at Tweed Heads.

RECOMMENDATION:

That Council :-

- 1. Votes \$10,000 towards the engagement of a consultant to carry out a planning exercise in the Tweed Heads Town Centre Civic Precinct.**
- 2. Funds be voted from the funds received in 2005/2006 as part of the proceeds from the sale of the existing Southern Cross University site.**

REPORT:

A planning exercise is being undertaken to review uses and traffic management at the Civic Precinct at Tweed Heads.

The following letter has been received from the Department of State and Regional Development:



TWEED HEADS TOWN CENTRE CIVIC PRECINCT
New South Wales
Department of State and
Regional Development
T.H. MASTERPLAN

Ground Floor 145 Wharf Street
PO Box 851
Tweed Heads NSW 2485
Telephone (07) 5599 3344
Facsimile (07) 5599 3354
www.business.nsw.gov.au

Michael Rayner,
General Manager
Tweed Shire Council
PO Box 816
Murwillumbah NSW 2484

TWEED SHIRE COUNCIL
FILE No G71/487/2000/64 Pt 1
Doc No
REC'D - 7 JUN 2006
ASSIGNED TO RAYNER, M
HARD COPY IMAGE

Dear Mike,

The recently formed Tweed Heads Town Centre Civic Precinct Committee comprising membership from key stakeholder organisations within the Civic Precinct; including Tweed Shire Council, has agreed to proceed with a masterplanning exercise as a matter of urgency.

The objective will be to holistically examine current and future land use planning and provide spatial analysis for the major activities within the Precinct to achieve current and future stakeholder requirements.

The strategic masterplanning outcomes will not be binding to any of the stakeholders; however the precinct plan should provide the basis for an integrated approach to a number of key planning and development issues within the precinct.

In order to expedite the process for the appointment of an appropriate consultant to commence the necessary planning assessment, your formal commitment to fund the study to the amount of \$10,000 would be appreciated.

The Civic Precinct Committee has expressed preference for the Department of State and Regional Development to act on behalf of the Committee to appoint the consultant and administer contract payments. The Department is willing to undertake this task; however the participation of the Northern Rivers Regional Development Board will be required to administer the financial aspects of the project. The Board's normal practice is to charge an administrative fee for this role, however any cost is expected to be nominal as the Department will undertake the primary project administration role. The NRRDB will consider their participation in the project at their Board meeting scheduled for 9th June 2006.

Your early response to this letter, indicating your willingness to participate and contribution of financial resources to the project would be highly appreciated.

Yours sincerely,

Trevor Wilson
Business Development Manager
Tweed Heads
5th June 2006

NSW Offices
Albury • Armidale • Ballina • Broken Hill •
Coffs Harbour • Dubbo • Gosford •
Goulburn • Grafton • Newcastle •
Orange • Parramatta • Port Macquarie •
Sydney • Tamworth • Tweed Heads •
Wagga Wagga • Wollongong

International Offices
London • Tokyo

Council's Administrators have been verbally advised and have agreed to support the planning process which Council needs to be involved in as a landholder in this precinct.

The General Manager and/or the Director Environment & Community Services will attend any briefing with the successful consultant.

It is therefore recommended that Council:-

1. Votes \$10,000 towards the engagement of a consultant to carry out a planning exercise in the Tweed Heads Town Centre Civic Precinct.
2. Funds be voted from the funds received in 2005/2006 as part of the proceeds from the sale of the existing Southern Cross University site.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Allocation of monies from the sale of the existing Southern Cross University site to fund the successful consultant for the Tweed Heads Town Centre Civic Precinct planning exercise.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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Nil.

O20 [EC-OC] Regional Council Initiative - 'Water & Energy Saving Kits Giveaway'

ORIGIN:

Environment & Health Services

SUMMARY OF REPORT:

The NSW state government has established a mandatory carbon trading market known as the NSW Greenhouse Gas Abatement Scheme (GGAS). Under the scheme, NSW electricity retailers are required to meet mandatory targets for greenhouse gas reduction. To assist in achieving these mandatory targets, a Demand Side Abatement (DSA) program has been established under the GGAS. DSA has resulted in the creation of a number of GGAS accredited companies that give away 'climate change / energy and water saving kits' to NSW/ACT households in return for the Greenhouse Gas Abatement Certificates (GGAC) that these kits generate as part of DSA. These companies then sell the GGAC to energy retailers, who in turn use these certificates to help meet their mandatory greenhouse gas reduction targets.

In 2005, Tweed, Ballina, Byron, Lismore, Kyogle, Richmond Valley and Clarence Valley Councils formed the Northern Rivers Group on Energy (NRGe) to identify and implement regional energy efficiency initiatives that reduce greenhouse gas emissions.

Following on from the success of the free energy and water saving kits given away to Tweed Shire residents in November 2005, the NRGe is proposing a regional giveaway initiative of approximately 80,000 water and energy saving kits (approximately 20,000 kits for the Tweed Shire) utilising the services of Easy Being Green (EBG) Pty/Ltd.

EBG will meet the product costs and logistical costs of the giveaway while allowing NRGe member councils to receive public recognition for the initiative through branding of the giveaway's promotional materials.

All that EBG asks from NRGe member councils is guidance on the most effective advertising and distribution methods for their local community.

RECOMMENDATION:

That Council endorse participation in the regional climate change / water and energy saving kits giveaway initiative.

REPORT:

The NSW state government has established a mandatory carbon trading market known as the NSW Greenhouse Gas Abatement Scheme (GGAS). Under the scheme, NSW electricity retailers are required to meet mandatory targets for reducing the emission of greenhouse gases from the production of electricity that they supply to the market. To assist in achieving these mandatory targets, a Demand Side Abatement (DSA) program has been established under the GGAS. DSA has resulted in the creation of a number of GGAS accredited companies that give away 'climate change / energy and water saving packs' to NSW/ACT households in return for the Greenhouse Gas Abatement Certificates (GGAC) that these products generate as part of DSA. These companies then sell the GGAC to energy retailers, who in turn use these certificates to help meet their mandatory greenhouse gas reduction targets.

The NSW GGAS has created a fantastic opportunity for local governments in NSW to foster sustainable water and energy consumption behaviours in their local communities at virtually no cost to council or ratepayers.

In November 2005 Tweed Shire Council was the first local government in NSW to take advantage of the DSA program of the NSW GGAS. Council utilised the services of NECO Pty/Ltd to give away 2,000 water and energy saving kits to the local community. Each kit consisted of 1 x AAA rated showerhead, 5 x compact fluorescent light (CFL) globes and a Green Power application form. In the average Tweed household, the installation of these three products is known to achieve the following:

- 48,800 litres of potable water saved each year.
- 48,8000 litre reduction in waste water each year.
- 10% reduction in daily energy use.
- 7 tonnes of greenhouse gases not emitted into the atmosphere.
- Up to \$150 saved in reduced water and energy bills.
- Householder satisfaction with the AAA rated showerheads, CFL globes and Green Power electricity.

The November 2005 giveaway was an overwhelming success, with Tweed Shire Council continuing to receive phone calls / emails / counter enquiries from people wanting to know if or when the giveaway will be held again.

The success of the initiative was communicated to other Northern Rivers councils via the Northern Rivers Group on Energy (NRGe), a greenhouse gas reduction action group that was formed as part of the Cities for Climate Protection Program. NRGe consists of representatives from Tweed, Ballina, Byron, Lismore, Kyogle, Richmond Valley and Clarence Valley Councils. Lismore, Byron and Ballina Councils followed Tweed Council's lead in early 2006, holding their own giveaways using NECO Pty/Ltd.

The success of the giveaways has prompted NRGe to propose a regional giveaway initiative of approximately 80,000 kits (approximately 20,000 kits for the Tweed Shire) utilising the services of Easy Being Green (EBG) Pty/Ltd.

EBG are a competitor of NECO Pty/Ltd and offer a significantly improved package when compared to NECO. While NECO required Tweed Shire Council to meet transport costs for the delivery of the kits, promotional costs and the labour costs of 4 staff members to run the two distribution points for one week, EBG will cover all transport costs for the kits to be delivered to each council area, staff to run the distribution stations, advertising costs, a range of distribution methods to maximise the uptake of the kits and the opportunity for participating councils to brand the giveaway under their own council names. In other words, EBG will meet the logistical costs of the giveaway while allowing councils to receive the significant amount of public recognition that the initiative will generate.

At this stage, all member councils of NRGe have expressed an interest in participating in a regional giveaway initiative utilising the services of EBG.

All that EBG is asking from NRGe councils is guidance on the most effective advertising and distribution methods for their local community and the supply of logo's for branding the giveaways as an initiative of NRGe member councils. Tweed Shire Council's (TSC) involvement can be managed by the Sustaining the Tweed Officer, who represents TSC on the NRGe and coordinated the NECO giveaway in November 2005.

EBG also encourages Councils to use the giveaway to promote or support their own environmental initiatives. This would be an excellent opportunity to promote the outcomes of the 'Tweed Shire Sustainable Households Project', a case study project that used 23 local households to quantify the water, energy and monetary savings that Green Power electricity, AAA rated showers and CFL globes achieve when used in tandem.

In addition to the supply and distribution of the free 'energy and water saving kits', for every kit given away, EBG will donate \$2 to local schools. The NRGe energy and water saving kit giveaway initiative would include the creation of a central fund for these donations to be deposited. These funds would then be distributed to each council area proportional to the number of kits distributed in that council area. Funds would be used to implement energy and water saving initiatives at local schools. Examples of projects that would be implemented include the supply and installation of rainwater tanks, AAA rated showers and CFL globes. Schools would be required to submit an application to their relevant council outlining their proposal (similar to the Federal Government's Community Water Grants). This process would also be coordinated by the Sustaining the Tweed Officer.

For more information on EBG, refer to Attachment 1.

LEGAL/RESOURCE/FINANCIAL IMPLICATIONS:

Nil.

POLICY IMPLICATIONS:

Nil.

UNDER SEPARATE COVER/FURTHER INFORMATION:

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1. Easy Being Green (DW 1415657)
-

SCHEDULE OF OUTSTANDING RESOLUTIONS

FOR COUNCILLOR'S INFORMATION:

12 APRIL 2006

ORDERS OF THE DAY

1 [NOM] Tugun Bypass Project

74 COUNCIL DECISION:

Administrator Boyd

Administrator Payne

RESOLVED that Council requests Ecograph to provide a report on the impacts on the existing native vegetation adjacent to the proposed C4 Tugun Bypass Project based upon the work done by Ecograph in the development of the Tweed Shire Vegetation Management Plan.

Current Status: Report being prepared.

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ADMINISTRATOR'S MINUTE

1 [AM] Signing of Documents

Documents signed by Administrators

Administrator Boyd

8 June	Regional Mosquito Management Committee
22 June	Proposed Closure - Acquisition of Road - Lighthouse Parade, Fingal Head

RECOMMENDATION:

That the information be received and noted.

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ORDINARY ITEMS FOR CONSIDERATION

REPORTS FROM SUB-COMMITTEES/WORKING GROUPS

1 [SUB-TCC] Minutes of the Tweed Coastal Committee Meeting held Wednesday 14 June 2006

VENUE:

Canvas and Kettle Meeting Room, Murwillumbah

TIME:

Commencing at 1.00pm.

PRESENT:

Terry Kane (Cabarita Beach-Bogangar) (Chair); Max Boyd (Tweed Shire Council Administrator); Richard Hagley (Department of Natural Resources); Lance Tarvey (NSW National Parks and Wildlife Service); Evan Matthews (Fingal Head); Peter Harding (Pottsville); Gary Thorpe (Hastings Point); John Harbison (Mooball); Rhonda James (Caldera Environment Centre); Jane Lofthouse, Grahame Burton (Tweed Shire Council)

INFORMAL:

Nicole Strehling, NRCMA Catchment Officer (Coastal & Marine); Leigh Abernethy; Denise O'Brien; Sandy Pimm (Tweed Shire Council); Jan McCrohon (Minutes Secretary)

APOLOGIES:

Kersten Tuckey (Department of Lands); Pat Dwyer (Dept of Primary Industries – Fisheries); Jason Pearson (Kingscliff); David Oxenham; Tom Alletson, Geoff Edwards, Stewart Brawley, (Tweed Shire Council)

MINUTES OF PREVIOUS MEETING:

Moved: Peter Harding

Seconded: Evan Matthews

RESOLVED that the Minutes of the Tweed Coastal Committee Meeting held Wednesday 12 April 2006 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

BUSINESS ARISING:

Item from Meeting held 12 April 2006.

1. Correspondence in Items 1 & 2

NRCMA Coastal Projects Update – there are a number of projects near completion from the recent round of funding. These include erection of 2 Osprey nest poles (Pottsville and Tweed Heads); Weed removal in coastal vegetation (2 people working on weed eradication for six weeks, including bitou and glory lily); Coastal Vegetation Work Plan 2006-2011; 10 Litter Traps at Cabarita Beach (CBD area); Mooball Creek Rehabilitation. Total NRCMA funding was \$50,300.

Item from Meeting held 12 April 2006

2. Recreation Access Plan Cudgen Creek

Grahame Burton reported on the draft brief he has prepared and is ready to invite tenders. It was suggested that he should possibly target specific local companies and let them know of the call for tenders. The draft brief was tabled at the meeting.

Item from Meeting held 12 April 2006

3. Underboring Cudgera Creek

Peter Harding asked for current status, and Jane gave an update. Contractors have been engaged to complete the work of lowering the pipes and placement of blocks. Council is currently applying for Fisheries Permit. Peter expressed concern that the new bridge (new freeway access from Pottsville) over Cudgera Creek allowed increased flood flow, therefore possibly increasing sand movement in the lower estuary and uncovering the pipes.

CORRESPONDENCE IN:

1. Submission from Roger Graff on Erosion of Fingal Beaches

Beaches - Erosion

A resident of Fingal Head has submitted a letter to Council and others raising concern at the erosion of Fingal and Dreamtime Beaches as a result of the sand bypass project.

The letter was addressed to State and Local Government, wanting more monitoring of sand lost from the beach.

*Max Boyd rejoined the meeting at 1.06pm
John Harbison joined the meeting at 1.06pm*

General concern at erosion of South Head Beach. This is acknowledged within TRESBP EIS which noted recession of this beach. TRESBP have routine monitoring.

Jane to reply to Roger Graff, noting it has been brought to the Committee's attention and that monitoring information should be requested directly from TRESBP.

2. Beach Vehicle Permit Access Review Outcome

Licences – Beach Vehicle

Council resolved at its meeting of 23 May 2006 to retain the current beaches accessible by beach vehicle permit holders.

Terry Kane said he'd received some complaints about erosion of the new southern beach access at Cabarita Beach and there was a need to reduce the board and chain by 10m. Jane to refer to Stewart Brawley.

3. Council Report - National Coast to Coast Conference 2006

Water Management - Conferences

Jane reported on her visit to Melbourne for the Coast to Coast Conference on 22 May. A detailed report is in the Business Paper and conference papers are available on the Victorian Coastal Council website.

CORRESPONDENCE OUT:

1. Submission to the Beach Vehicle Access Policy Review

Licences – Beach Vehicle

Submission made in accordance with discussion at last meeting.

2. Copies of Tweed Coast Estuaries Management Plan and Coastline Management Plan to Minister for Approval

Coastal Management, Estuary Management

These plans may be the first in NSW to be approved by the Minister under the new amendments to the *Coastal Protection Act 1979*.

AGENDA ITEMS:

1. Leigh Abernethy – Kingscliff Foreshore Master Plan, Pottsville Foreshore Master Plan (inc Ambrose Brown Park), Coastal Furniture Design
Coastal Management

Leigh discussed the finalised draft Kingscliff Foreshore Master Plan and commencement of the Pottsville Foreshore Master Plan as well as the furniture design project.

- (a) Leigh tabled a copy of the Kingscliff Foreshore Master Plan which is also available on the internet. Draft comments close 14 June, to go to Council by 14 July. In the interim having another reference group meeting to discuss community issues. Work should commence on Faulks, Lions and Jack Bayliss Parks in the next 12 months.

Gary Thorpe joined the meeting at 1.20pm.

- (b) Leigh also tabled furniture design ranges, which took into account anti vandalism, ease of maintenance, and high longevity. Timber look (sawdust/resin composite), with steel, and concrete blocks. Contemporary but simple look, it will suit Jack Evans Boat Harbour as well as other places. The designers will also manufacture the furniture. The aim was to update the image of the Tweed without making it too resort style.
- (c) Pottsville Foreshore – Leigh has started the community consultation process for Ambrose Brown Park, Pottsville, including connections to other open space. A preliminary Ambrose Brown Park plan was tabled.

Cabarita Beach Foreshore Plan is being prepared by consultants with input from Leigh, then Hastings Point is next.

Leigh went to the Aboriginal Advisory Committee to request that the Sub-committee advise her of Aboriginal heritage sites and issues in each foreshore area.

Max Boyd asked about funding, who does the costing and where do funds come from. Leigh outlined the process involved and noted that projects were funded from a number of sources.

-
2. Draft Hastings Point Rocky Shore and Coastal Habitat Education Signage
Environment Education

The latest version of the Hastings Point Rock Platform signs was presented by Jane. Hastings Adventure Marine Centre (Ted Brambleby & Kerrie Trees) were commissioned to put the information together, which is still in draft form.

Max Boyd advised that as the Caravan Park is being redeveloped, a new site is needed for the Marine Centre which attracts many school groups to Hastings Point to learn marine biology at the museum. General discussion followed on a possible new location for the Marine Centre.

Gary Thorpe felt there would be a lot of objection to any proposal for the museum to be relocated to the Hastings Point headland.

Moved: Gary Thorpe
Seconded: Peter Harding

RESOLVED that the Tweed Coastal Committee recommend that Council investigate a suitable area for relocation of the Marine Centre within Hastings Point.

RECOMMENDATION:

That Council investigate a suitable area for relocation of the Marine Centre within Hastings Point.

Noted that options for signage/structure/locations to come back to the Committee. It may be an option to make signs simpler with accompanying brochure to contain more detailed information.

Sandy Pimm and Denise O'Brien joined the meeting at 2.20pm.

3. Cudgera Creek - Development of Caravan Park Site
Development Assessment, Cudgera Creek

Discussion on the proposed development of a Retirement Village on the Hastings Point Caravan Park Site, Tweed Coast Road, Hastings Point. Of particular interest is the treatment of the riparian zone following removal of existing mobile homes.

Leigh Abernethy left the meeting at 2.30pm

Denise O'Brien tabled the plans and asked if the Committee recommends enforcement of a 50m buffer riparian zone. General discussion ensued.

Rhonda James recommended staying with the 50m buffer zone, i.e. not having any buildings within that zone, and there should be an adequate vegetation plan during the staged redevelopment. The current development proposal has an area with no buildings of between 30 to 60 metres from the creek.

Moved: Rhonda James
Seconded: Peter Harding

RESOLVED that the Tweed Coastal Committee advise Council that the minimum 50m buffer zone as prescribed by the Tweed Coast Estuaries Management Plan be adhered to; that a suitable restoration and revegetation plan be required, and that the development proponents be requested to redesign the proposal to accommodate this submission

RECOMMENDATION:

That Council be advised by the Tweed Coastal Committee that the minimum 50m buffer zone as prescribed by the Tweed Coast Estuaries Management Plan be adhered to; that a suitable restoration and revegetation plan be required, and that the development proponents be requested to redesign the proposal to accommodate this submission.

Denise O'Brien, Sandy Pimm and Rhonda James left the meeting at 2.55pm

4. NRCMA - Nicole Strehling, Catchment Officer (Coastal and Marine NRCMA)
Total Catchment Management

Nicole attended the meeting to introduce herself and discuss the role she has as the Catchment Officer (Coastal & Marine) for the northern area of the NRCMA.

The Catchment Action Plan consists of a number of broad themes. Nicole is the officer looking after projects within the two CAP themes of coastal and marine.

A Coastal and Marine education strategy is being developed and the draft will be widely circulated, and Nicole will keep the Committee involved in this.

5. Update Kingscliff Foreshore Protection EIS
Coastline Management Plan, Coastal Management

An update of the foreshore protection EIS was presented by Jane. Consultants are working closely with Leigh Abernethy on how to incorporate beach access etc. Another meeting may have to be called within the next month to look at options presented by the consultants.

The EIS Contract is for \$255,000 (incl GST), which looks at all different aspects such as sand nourishment, rock transport, impact on marine environment etc.

6. Draft Duranbah Beach Nourishment Strategy
Beaches – Duranbah Beach

A copy of the Draft Strategy was tabled by Jane at the meeting for discussion. Jane presented an outline of the strategy to be adopted by Tweed Shire Council and TRESBP.

GENERAL BUSINESS:

1. Cudgera Creek - Underboring

Cudgera Creek

Gary Thorpe feels that the Committee should be involved in assessing proposals for the failed underboring project. Richard Hagley advised that the bed of the creek is Crown land, so there would have to be a licence agreement with the Dept of Lands,

Gary felt that it is in the Committee's interest to keep informed about this project. He wanted his objections to the proposal to place concrete blocks on the creek bed recorded. His other concern is that it's been pushed through without any assessment of environmental impacts.

Peter Harding also very concerned about restrictions to water flow from structures in the creek.

2. South Kingscliff (Lot 490)

Beaches - Access

John Harbison pointed out the road detour in Lot 490 and the lack of car parking facilities on the old road. Grahame Burton agreed and said he had the same concern, but the long term plan is that we have assurances that more parking will be made available to the public. It is understood that the developer of Lot 490 is to provide coastal car parking as a condition of development of that land.

3. Wommin Lake/Lagoon Land

Beaches - Access

Evan Matthews asked about the Crown Land between Wommin Lake and Lagoon regarding illegal vehicular access. Jane will get in touch with Kersten Tuckey and place it on the next meeting agenda.

NEXT MEETING:

The next meeting of the Tweed Coastal Committee will be held Wednesday 9 August 2006 in the Canvas & Kettle Meeting Room commencing at 1.00pm. There may be an interim meeting on the Kingscliff EIS prior to this, date to be advised.

The meeting closed at 3.30pm.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

2. **Draft Hastings Point Rocky Shore and Coastal Habitat Education Signage
Environment Education**

As per the Committee's recommendation being:

That Council investigate a suitable area for relocation of the Marine Centre within Hastings Point.

Noted that options for signage/structure/locations to come back to the Committee. It may be an option to make signs simpler with accompanying brochure to contain more detailed information.

3. **Cudgera Creek - Development of Caravan Park Site
Development Assessment, Cudgera Creek**

As per the Committee's recommendation being:

That Council be advised by the Tweed Coastal Committee that the minimum 50m buffer zone as prescribed by the Tweed Coast Estuaries Management Plan be adhered to; that a suitable restoration and revegetation plan be required, and that the development proponents be requested to redesign the proposal to accommodate this submission.

2 [SUB-TRC] Minutes of the Tweed River Committee Meeting held Wednesday 14 June 2006

VENUE:

Canvas & Kettle Meeting Room, Murwillumbah Civic Centre

TIME:

9.00am.

PRESENT:

Max Boyd (Tweed Shire Council Administrator) (Chair); Robert Quirk (Tweed River Advisory Committee & NSW Cane Growers' Association); Richard Hagley (DIPNR); Martin Dobney (Action Sands Chinderah); Bob Loring (Dept of Primary Industries - Fisheries); Carl Cormack (NSW Maritime Authority); Lance Tarvey (Dept of Environment & Conservation); Harry Christopher (Bilambil Heights Progress Assoc); Claire Masters (Tweed Landcare Inc); Rhonda James (Caldera Environment Centre); Errol Wright (Tweed River Charter Operators); Jane Lofthouse, Geoff Edwards, Marty Hancock (Tweed Shire Council)

INFORMAL:

Nicole Strehling, NRCMA Catchment Officer (Coastal & Marine); Jan McCrohon (Minutes Secretary)

APOLOGIES:

Kersten Tuckey (Dept of Lands); David Oxenham, Tom Alletson, (Tweed Shire Council)

MINUTES OF PREVIOUS MEETING:

Moved: Robert Quirk

Seconded: Harry Christopher

RESOLVED that the Minutes of Meeting held Wednesday 12 April 2006 be accepted as a true and accurate record of the proceedings of that meeting.

BUSINESS ARISING:

Item from Meeting held 12 April 2006

1. Report on Meeting with Gold Coast Airport

Max Boyd, David Oxenham and Tom Alletson attended a meeting with representatives of Gold Coast Airport on 18 May 2006. A report on this meeting and ongoing relations with the airport were presented by Max Boyd.

GCAL representatives reiterated that Environmental Management Plans had been developed and were reviewed every 5 years.

The Committee has the opportunity to input any concerns they may have at this review stage. Max suggested that relevant GCAL officers be invited to attend one or more of TRC meetings. They should be invited to meetings when appropriate and provided with issues/questions of concern to the Tweed River Committee, such as:

- Stormwater drainage management
- Soakage/retention/filtering of any surface runoff/groundwater treatment
- Remediation of water quality
- Old dredge area
- Vegetation Management Plans
- Potential collaboration with Ecological Health Assessment program

Moved: Robert Quirk

Seconded: Lance Tarvey

RESOLVED that the Tweed River Committee write to the Gold Coast Airport Ltd and request that the appropriate officers from the Airport attend the next Committee meeting and bring it up to date on relevant Plans of Management (eg drain management, stormwater, groundwater and vegetation management), and any other issues that impact on the Cobaki Broadwater.

Item from Meeting held 12 April 2006

2. Correspondence In, Item 2 – Valuation of Ferry Ramp Land, North Tumbulgum

Council resolved to acquire the parcel of foreshore land at North Tumbulgum and to fund the purchase through the following budgets:

\$20,000 from Sale of Road Reserve funds
\$10,000 from TRC allocation for Boating Facilities
\$10,000 from Waterways Asset Replacement Fund

Moved: Robert Quirk

Seconded: Clare Masters

RESOLVED that the Tweed River Committee advise Council that the Committee accepts the cost of \$10,000 as part payment for purchase of the foreshore land at North Tumbulgum.

RECOMMENDATION:

That Council be advised that the Committee accepts the cost of \$10,000 as part payment for purchase of the foreshore land at North Tumbulgum.

Item from Meeting held 12 April 2006

2. Agenda Item 1 – Project Proposal, Identifying Effects of Tidal Restoration in the Tweed River Floodplain

The funding application to the Australian Pacific Science Foundation was not successful, therefore as resolved at the last meeting, this Committee will provide assistance of \$43,000 over 3 years. The Committee confirmed its support and requested regular updates from the project leaders.

A presentation and update to be requested for the next meeting. To be included on the Agenda.

Marty Hancock explained that tidal flushing was working well to increase fish passage, but it would be beneficial to landholders to know what other impacts there may be and mitigation of these impacts. Trials of further plantings of Lomandra will be made to help stabilise the riverbanks.

There are almost 300 floodgates on the Tweed, and NSW Fisheries identified 47 as priorities for floodgate modifications. Funding obtained from the Environmental Trust will bring the number of adapted floodgates to 20 within 2 years. The priority is larger systems and those with through flow where there is better flushing.

Robert Quirk complimented Marty Hancock for sending a newsletter to every landholder in the area highlighting current projects, which was very well received. It is positive that local government, NRCMA and industry are working together.

Item from Meeting held 12 April 2006

3. Glossy Black Cockatoo

Geoff Edwards followed up on this and has been sent an action plan with information on the cockatoos' feeding habits and other research. After some discussion with Lance Tarvey, they are looking to get the local Tweed Bird Observers involved in monitoring. There is educational material available, and the cockatoo will be featured in Queensland Bird Week. The glossy black have a red rectangle on their tail. Lance Tarvey noted they are a threatened species in NSW.

Geoff will keep people advised on what is happening, with an article in the Tweed Link, and information in Libraries etc.

CORRESPONDENCE IN:

1. NRCMA ENEWS and Board Update May 2006

Total Catchment Management

Copies of correspondence from the NRCMA were made available at the meeting.

CORRESPONDENCE OUT:

Nil.

AGENDA ITEMS:

1. NRCMA - Nicole Strehling, NRCMA Catchment Officer (Coastal and Marine)

Total Catchment Management

Nicole attended the meeting to introduce herself and discuss the role she has as the Catchment Officer (Coastal & Marine) for the northern area of the NRCMA.

The Catchment Action Plan consists of a number of broad themes. Nicole is the officer looking after projects within the two CAP themes of coastal and marine.

A Coastal and Marine education strategy is being developed and the draft will be widely circulated, and Nicole will keep the Committee involved in this.

Rhonda James joined the meeting at 9.50am.

2. Oxley Cove Peninsular Plan of Management

Oxley Cove

Over the past 12 months a management plan for community land on the banks of the Tweed River adjacent to the Oxley Cove Canal Estate has been prepared. This plan was considered by Council at its meeting of 13/6/06 and was deferred to the next meeting. The plan contains recommendations relating to vegetation management, access control and preparation of a park plan to enhance the recreational amenity of this area. Ongoing implementation will be undertaken by Council staff and contractors and will be funded initially by the Tweed River Committee.

A copy of the plan was tabled for review at the meeting, and copies will be available on request. A meeting has been held onsite with residents and Kate McKenzie of the CMA. There is intent to form a Landcare group to undertake some work on the vegetation in the area.

Max Boyd reported that the plan was deferred as he was unaware of the extent of consultation with the Aboriginal Land Council. Given the participation of the Land Council, there is now no reason to defer its adoption and Council will be advised accordingly.

Robert Quirk asked if the plan addressed the concerns of the Oxley Cove residents, and Harry Christopher replied that most people wanted it to go ahead. The biggest concern was that of vandalism. Vehicular traffic will be blocked off, which will help to reduce vandalism.

3. Update on Cobaki and Terranora Broadwater Projects

Cobaki Broadwater, Terranora Broadwater

- (i) Ecosystem Health Assessment - The final report on the design phase of this project will be delivered in July through the International Water Centre. Preliminary budget development indicates that the sum required to undertake an ecosystem health assessment using the method developed by the SEQ Healthy Waterways Partnership will significantly exceed the allocation originally considered by the TRC. This is a concern, however, it is also considered that while high, funding required for the monitoring project, viewed in the context of investment in urban development and infrastructure projects in this area over the next 5 years, is still relatively small. It is recommended that the Committee work to identify other potential funding partners who would have an interest in the project. A detailed consideration of the project and implementation within Cobaki and Terranora should be held over until the final design report is received.

Richard Hagley spoke of a project to assess feasibility of the SEQWQ model to the NRCMA region. A contractor to undertake this study has been selected. There is the opportunity to involve Gold Coast Airport in monitoring within Cobaki Broadwater.

- (ii) Sustainability Assessment- Geolink is preparing draft scenario options to be modelled, in association with ANU. The next step for Council in this process will be to assist the consultants to put additional data into the decision-making models and revise them to ensure outputs are realistic. A model should be ready for test running by the August meeting.
- (iii) Cultural Heritage Management Plan – Ian Fox has completed a draft of the Cultural Heritage Management Plan that is currently being reviewed by members of the local Aboriginal Community. It is anticipated that the report will be complete by the August TRC meeting.

Max Boyd felt that we should investigate ownership of land surrounding Cobaki Broadwater to determine land which is not in government ownership.

Jane to investigate and bring back to next meeting the areas of land that are in public ownership.

4. Tweed Vegetation Management Plan - Opportunity to fund First Year Implementation

Vegetation Management Plan

Council is currently negotiating with a vegetation management specialist, to join the organisation to assist with relevant strategic and development assessment related vegetation issues. It would be possible for the TRC to fund one third of this position (3 days per fortnight) and as such, begin phasing in priority aspects of the vegetation management plan. Tasks that could be initiated through a part-time 12 months appointment could include:-

- Developing procedural formats for full scale VMP implementation
- Developing working relationships with the NRCMA related to vegetation management
- Attracting NRCMA and other relevant funding for implementation of the VMP
- Initiation of educational programs
- Investigating appropriate conservation incentive programs for the Tweed Shire
- Working on threatened species conservation issues

The TRC would need to allocate \$25,000 to this initiative to assist with creation of the position for 12 months, after which funding for the project should be available through the 7 year infrastructure plan.

Claire Masters said that Landcare would be very happy with this offer by Council. Max Boyd said the budget has been adopted by Council and he is awaiting a decision by the Minister as to the 7 year Plan. The Vegetation Management Plan has yet to be adopted by Council.

Robert Quirk felt this was an opportunity to further links with the Catchment Management Authority.

The money would come out of this year's budget, divided between Riparian Vegetation Rehabilitation, Foreshore Projects and Wetland Enhancement.

Moved: Rhonda James

Seconded: Claire Masters

RESOLVED that the Tweed River Committee advise Council that \$25,000 is to be allocated for the appointment of a vegetation management officer for 3 days a fortnight for 12 months and that a desk would be made available. A review of the position is to be undertaken in 6 months to determine if sufficient resources have been allocated.

RECOMMENDATION:

That Council endorse a \$25,000 allocation from the Tweed River Committee budget to contribute to the appointment of a temporary officer for vegetation management

for 3 days a fortnight for 12 months. A review of the position is to be undertaken in 6 months to determine if sufficient resources have been allocated. .

5. Water Supply Catchment Stream Bank Protection Policy
Total Catchment Management, Water Supply - General

A report to Council at its meeting of 13 June from the Water Unit recommended the adoption of a Stream Bank Protection Policy. The objective of this policy and report is to formalise the ability for Council to fund stream bank protection works on private land. A copy of the report to Council was tabled at the meeting. The report was adopted by Council.

It was agreed that a copy of the report should be sent to the General Manager and Peter Boyd of the NRCMA.

6. Tweed Recreational Boating Study
Boating, Master Boating Plan

Patterson Britton & Partners have commenced the Recreational Boating Study, and undertaken consultation with boating groups, and conducted an audit of existing facilities. A draft plan will be presented at the next meeting.

The official opening of Lakes Drive Boat Ramp is on 22 June. There was concern regarding the lack of parking facilities at this location and along Kennedy Drive. This will be one of the issues looked at by the consultants. Fingal Head Boat Ramp has adequate parking, and could take the pressure off Kennedy Drive if there was more signage to this effect. Geoff Edwards will investigate the legality of fining cars parked in trailer spaces.

Carl Cormack advised that the NSW Maritime Authority Tweed Boating Plan of Management is still with the Minister's office. There is a budget of \$60-70,000 for signage relating to the Boating Plan of Management.

Errol Wright expressed his concerns about Jack Evans Boat Harbour silting up, and the need for dredging. Harry Christopher added that the Broadwater had the same problem. Max Boyd said that there had been numerous discussions on the safety of swimmers and needs of rescue organisations versus the boating community's needs.

GENERAL BUSINESS:

1. Colour Brochure

Tweed River Committee

Discussion on updating the 'Looking after the Tweed Estuary' brochure. The new version could be launched at the Tweed River Festival. The Committee agreed that the brochure should be updated. Claire Masters also suggested that information videos could be added at the Festival.

Geoff Edwards left the meeting at 10.57am

2. Stotts Island

Drainage Union - Duranbah

Robert Quirk advised that, as specified in the Stotts Channel Vegetation Management Plan, there is a need for a site visit by representatives of Duranbah Drainage Union, Fisheries, and National Parks, by boat when determining the amount of vegetation to be cleared.

Jane suggested we wait for Tom's return on 27 June before this is organised, with the following people to take part in the review:-

- Duranbah Drainage Union
 - DPI – Pat Dwyer
 - NPWS DEC – James Law/Allan Goodwin
 - TSC – Tom Alletson
 - DNR – Richard Hagley
-

3. Mangroves on Tonys Bar

Tonys Bar

Lance Tarvey requested an update on the current situation regarding clearing mangroves off Tony's Bar, Tweed River. Jane will check with Pat Dwyer (DPI Fisheries) and report back to Lance.

4. Oyster Lease to be Removed

Oyster Lease

Bob Lory advised that an oyster lease needs to be removed at the bottom of Bilambil hill. He knows an oyster farmer now out of work who is keen to do the job. \$5,000 has been allocated to this by the Committee plus waive of dump fees. Jane will investigate from previous Minutes.

5. Estuary Management Program

Estuary Management, Tweed River Committee

Guaranteed funding through the Estuary Management Program ends this year. With elections due next year, it might be a good opportunity to lobby for continued funding for the Tweed River Estuary Management Program.

6. Acid Sulfate Scald

Pollution – Acid Sulfate Soil

Marty Hancock updated the Committee on the remediation of the acid sulfate scald at Wardrop Valley, with two thirds on Council land and one third development land. Hopefully this area will be capped and vegetated this winter.

7. Richmond River Fish Kill Meeting

Pollution - Water

Richmond River Fish Kill meeting will be held Friday 16 June, and Marty Hancock will attend.

8. Environmental Restoration Conference

Water Management - Conferences

Claire Masters was funded by the Committee to attend the 2 day conference at Ballina recently. Rhonda James also attended, as did Sandy Pimm and Tanya Fountain from Council. Claire reported on issues covered at the conference and thanked the Committee for giving her this worthwhile opportunity.

9. Coast to Coast Conference

Water Management - Conferences

Jane reported on her visit to Melbourne for the Coast to Coast Conference on 22 May. A detailed report is in the Business Paper and conference papers are available on the Victorian Coastal Council website.

10. BOM Conference

Water Management - Conferences

Robert Quirk reported on his attendance at the BOM Conference on sea level rise. The largest increase in sea temperature has been recorded in the Tasman Sea. Climate change is now a major concern everywhere, with the worst case scenario being an 8 degree Celsius temperature increase by the year 2100.

NEXT MEETING:

The next meeting of the Committee is to be held on Wednesday 9 August 2006 at the Canvas & Kettle Meeting room commencing at 9.00 am.

The meeting closed at 11.40am.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

BUSINESS ARISING:

2. Correspondence In, Item 2 – Valuation of Ferry Ramp Land, North Tumbulgum

As per Committee's recommendation being:

That Council be advised that the Committee accepts the cost of \$10,000 as part payment for purchase of the foreshore land at North Tumbulgum.

AGENDA ITEMS:

4. Tweed Vegetation Management Plan - Opportunity to fund First Year Implementation

Vegetation Management Plan

As per Committee's recommendation being:

That Council endorse a \$25,000 allocation from the Tweed River Committee budget to contribute to the appointment of a temporary officer for vegetation management for 3 days a fortnight for 12 months. A review of the position is to be undertaken in 6 months to determine if sufficient resources have been allocated.

3 [SUB-LTC] Minutes of the Local Traffic Committee Meeting held Thursday 15 June 2006

VENUE:

Peter Border Room

TIME:

Commencing at 9.00am.

PRESENT:

Committee Members: Mike Baldwin, Roads and Traffic Authority; Jason Thrupp, NSW Police; Mr Neville Newell, MP, Member for Tweed.

Informal: Chairman: Mr Paul Morgan, Mr Ray Clark and Judith Finch Tweed Shire Council.

APOLOGIES:

Mr Don Page MP, Member for Ballina.

MINUTES OF PREVIOUS MEETING:

RESOLVED that the Minutes of the Local Traffic Committee Meeting held Thursday 18 May 2006 were tabled at the meeting and accepted by the Committee as a true and accurate record of the proceedings.

SCHEDULE OF OUTSTANDING LOCAL TRAFFIC COMMITTEE ITEMS

Item from Meeting Held 16/3/06:

3. Bakers Road, Murwillumbah

R0280 Pt1; DW1346133; Traffic - Parking Zones; New Art Gallery

"Request received in relation to parked vehicles at the art gallery. The parked vehicles are making it difficult for persons at 41 Bakers Road to exit their property.

This item deferred until the extensions to the Art Gallery are complete as extra on-site car parking should be provided.

To be brought forward to the Local Traffic Committee meeting in September 2006.

For Council's information."

Current Status: To be brought forward to the LTC for meeting in September 2006.

BUSINESS ARISING:

Item from Meeting held 19/5/05

4. Pottsville / Mooball Road, Pottsville

R4420 Pt3; DW1195084; Traffic - Speed Zones; Safety

"Request received for a reduction in the speed limit from 100kph to 80ph on the section of Pottsville Mooball Road from where the 100kph commences to Mooball to take in all the winding areas.

It was noted that speed counts have been performed in the past and this location will be reviewed once the reconstruction of Cudgera Creek Road is completed.

To be brought forward to the meeting of June 2006.

For Council's information."

Current Status: To be brought forward to the LTC for meeting in June 2006.

For Council's information.

Current Status: To be brought forward to the LTC for meeting in December 2005.

Item From Meeting held 15/12/05

"The Committee noted that road works are not yet completed. To be brought forward to the LTC meeting in March 2006.

For Council's information."

Current Status: To be brought forward to the LTC for meeting in March 2006.

Item From Meeting held 16/3/06

"To be brought forward to the Local Traffic Committee for meeting in April 2006.

For Council's information."

Item From Meeting held 14/4/06

"The Committee noted that the roadworks are not yet finished. Decided that speed counts are to be performed prior to the June 2006 meeting. To be brought forward to the Local Traffic Committee meeting of June 2006.

For Council's information.

Current Status: To be brought forward to the LTC for meeting in June 2006."

From Meeting held 15/6/06

The Committee noted that traffic and speed counts need to be performed and reported to the July 2006 meeting.

For Council's information.

Item from Meeting held 16/3/06

12. Machinery Drive, Greenway Drive and Tierney Place, Tweed Heads South

R3250 Pt4; R2315 Pt1; R5485 Pt1; DW1360073; Traffic - Weight of Vehicles (inc B-Doubles)

"Request received for an extension to the B-Double route from the end of Machinery Drive to the entrance gate at the Tweed Heads Motor Registry, Greenway Drive, South Tweed Heads.

This is to allow roadworthiness inspections to be conducted on B-Doubles at the Tweed Heads Motor Registry. The Motor Registry is drive through and the exit is on Tierney's Place, South Tweed Heads, and an existing B-Double route.

Concern was raised with what impact the inspection of B-doubles may have on Machinery Drive and how the vehicles would be managed on-site.

To be brought forward to the April 2006 meeting.

For Council's information."

Item From Meeting held 14/4/06

"To be brought forward to the meeting of 18 May 2006 for the Police Representative to be in attendance as he has had discussions with RTA inspectors regarding the matter.

For Council's information."

Item From Meeting held 18/5/06

The Roads & Traffic Authority have responded to Council (DW1382670) as follows:-

"Machinery Drive is an approved BDouble route, the request is to extend the route for less than 100 metres along Greenway Drive to the Motor Registry entrance gate. The number of combinations using this route would be minimal so there would be no additional impact on Machinery Drive and very little impact to Greenway Drive.

The B Doubles would use the entrance gate, drive through the inspection area at the rear of the Motor Registry and use the exit gate onto Tierneys Place another existing approved B Double route."

"The Chairman advised that Council has not received enough detail in relation to this request. It was also noted that the RTA form for a b-double application has not been received. Also Local RTA Inspectors have advised that it is considered that a b-double vehicle would be unable to negotiate the site. Evidence is also required that there will not be a great impact on already congested intersections such as Machinery Drive.

The RTA Representative undertook to get further information and report back to the next LTC meeting.

To be brought forward to the LTC meeting in June 2006."

From Meeting held 15/6/06:

In view of no further information being submitted from the applicant no further action will be taken at this time.

For Council's information.

Item from Meeting held 13/4/06:

3. Kingscliff Street, Orient Street, Sutherland Street, Kingscliff
R3960 Pt1; Kingscliff Street, Sutherland Street; DW1354964; Kingscliff Public School;
Traffic - Safety; Traffic - School Zones; Traffic - Pedestrian Crossing

"Request received for review of the following sites in relation to school safety:-

- 1. 5 way roundabout connecting Kingscliff Street and Sutherland Street. Concerns have been raised in relation to safety of student when crossing at this location on their way to and from school.*
- 2. The location of the school crossing in Orient Street. Concern has been raised as to the close proximity to the corner, access, vision, slope of roadway and safer crossing options further up the street closer to the school.*

The Committee commented as follows:-

- 1. That crossing points on all legs of the roundabout are provided and comply with relevant standards. It is suggested that the school raises the issue with parents and jointly educate the students to cross roads at the appropriate locations. The School should also be advised that Roads & Traffic Authority research shows that children under the age of 10 should be accompanied by an adult in a traffic environment.*

2. *In relation to the location of the school crossing the previous Principal of the school had requested that the school crossing be located in its current position. A condition of the crossing being placed was that the school agreed to display the 'crossing flags' in the morning and afternoon. The Road Safety Officer undertook to meet the Principal on site to explain site constraints.*

For Council's information."

Item from Meeting Held 18/5/06:

"The Chairman advised that the Road Safety Officer had met with the School Principal in relation to moving the location of the school crossing and placement of flags. It was noted that the School had yet to sign documentation in relation to placement of flags.

To be brought forward to the June 2006 meeting."

From Meeting held 15/6/06:

The Committee noted that a letter had been sent to the School in relation to flags being erected prior to the crossing being relocated.

RECOMMENDATION:

That the School crossing be relocated further west on Orient Street closer to the school, subject to the Principal signing the agreement form to place the crossing flags as per the RTA Technical Direction.

From Meeting held 18/5/06:

3. Prince Street - Children's Crossing
School - Fingal Head; Traffic Safety; Pedestrian Crossings, School - Zones; Footpaths - Request For; R4439 Pt 1; R3040 Pt2; DW 1387251

"Request received for a children's crossing at the intersection on Prince Street and Letitia Spit Road.

The appropriate investigations to be undertaken by the Road Safety Officer and to meet on site with the School to identify the best locations.

To be brought forward to the June 2006 meeting.

For Council's information."

From Meeting held 15/6/06:

Further discussion took place on this issue and the RSO advised he has been in contact with the School and the site for the children's crossing is on Prince Street 6m west of Letitia Spit Road.

RECOMMENDATION:

That a children's crossing be located on Prince Street 6m west of Letitia Spit Road, subject to the Principal signing the agreement form to place the crossing flags as per the RTA Technical Direction.

From Meeting held 18/5/06:

4. Rowlands Creek Road

Traffic - Speed Zones; R4800 Pt 2; DW1356483;

"Request received for the speed limit on Rowlands Creek Road to be reduced to 60-70kph.

Traffic count data and crash records to be updated. To be brought forward to the meeting in June 2006.

For Council's information."

From Meeting held 15/6/06:

Traffic count data was unavailable. To be brought forward to the meeting in July 2006.

For Council's information.

GENERAL BUSINESS:

PART A

1. Kyogle Road (Fruit Stall) between Uki and Murwillumbah
R2970 Pt 14; DW1397931; Traffic-Safety; Roadside Stalls; Complaint

This item is being dealt with under the Confidential Meeting Agenda. The Supplementary Confidential Report can be found at DW1417508.

RECOMMENDATION:

That this matter be referred to the Director Planning and Development to pursue:-

1. The immediate installation of the car park in accordance with the approved car park plan.
2. The status of the development in regard to the time limit on the consent.

-
2. Queensland Road, Murwillumbah
R4510 Pt 1; DW1397631; Roads - Works/Construction; Traffic - Speed Zones; Traffic - Safety; Dungay Creek Road; Tomewin Road

Request received in relation to:-

1. The junction below Sweetnams Bridge with Dungay Creek Road has a blind bend obstructing the view of traffic approaching from the south, making it difficult to turn into Dungay Creek Road. It is suggested that a mirror located on this bend may assist, together with a speed advisory sign and trimming of the foliage.
2. The painting of double centre lines and advisory "Slow" sign being installed on the bend in Queensland Road at the location of a fatal accident a couple of years ago. It is reported that drivers are travelling too fast on this bend.

The Committee discussed the above issues and made the following recommendations:-

RECOMMENDATION:

That:-

1. Council approach the owner of the property at the intersection of Tomewin Road and Dungay Creek Road to give permission to remove vegetation to assist sight distance.
2. The double centre lines be extended east at the intersection of Tomewin Road and Dungay Creek Road.

3. Guideposts be erected on Tomewin Road in accordance with Council's policy.
4. Double centre lines be installed on Queensland Road in locations where sight distance is below RTA specifications.

-
3. Brisbane Street, Murwillumbah
R0760 Pt 1; DW1403151; Traffic - Speed Zones; Traffic - Safety

Verbal request received in relation to an incident with a vehicle exiting the Sunnyside car park onto Brisbane Street. It is reported that vehicles leave the site at speed, placing pedestrians at risk.

The Committee noted that the wall does not comply with sight line requirements specified in Australian Standards which is considered a major contributing factor to the problem.

The possibility of the installation of a mirror to view pedestrians was suggested.

The Committee noted pedestrians on the footpath have right of way and Centre Management should erect additional signage and extra speed humps to ensure pedestrians are protected.

RECOMMENDATION:

That the Road Safety Officer meet with Centre Management of Sunnyside to discuss methods of improving pedestrian safety at the exit on to Brisbane Street.

-
4. Eyles Lane, Murwillumbah
Roads - Maintenance Program; R1981 Pt1; DW1392828; Traffic - Safety

Request received for Eyles Lane to be converted to one way for vehicle use. It has been reported that two vehicles cannot pass and that parking is also very difficult due to culverts and drains.

The Committee noted that this is a typical laneway to provide low speed access to properties and it is also noted that 2 vehicles can pass provided they drive in an appropriate manner. It was noted that the maintenance engineer is aware of the maintenance issues raised and has responded separately. It is generally not considered appropriate to convert residential streets and roads to one way flow as it has the potential to increase traffic speed and forces people to travel further distances.

For Council's information.

5. Kyogle Road, Uki
R2970 Pt14; DW1403643; Traffic - Speed Zones; Bus Services - Routes

Request received for reassessment of the 80kph speed limit on Kyogle Road near the school bus stop (at the bottom of the road).

The Committee is of the opinion that the 80kph speed limit is appropriate for Kyogle Road at that location and is based on a recent speed zone assessment. The Committee was also advised that bus shelters in subdivisions are generally installed for the benefit of commuter bus services but are often used by school bus services.

In this instance the Committee considers that it would be a safer option for the bus to enter Braeside Drive and turn at the nearest side street as they do in several other rural residential locations. It was agreed that Council should contact the Department of Transport requesting a variation of the school bus route to include Braeside Drive.

The Committee also agreed to endorse 50kph speed zoning on Braeside Drive.

RECOMMENDATION:

That:-

1. A 50kph speed zone be endorsed on Braeside Drive, Uki.
2. Council writes to the Department of Transport requesting a variation of the school bus route to include Braeside Drive.

-
6. Piggabeen Road and Cobaki Road, Piggabeen
R4300 Pt11; DW1405363; Traffic - Directional Signs; Street-Sign

Request received for:-

1. The installation of a "Give Way" sign at the intersection of Piggabeen and Cobaki Roads, Humpty Back Bridge with Cobaki Road having to give way to Piggabeen Road for traffic heading into Tweed Heads.
2. The erection of a sign "To Piggabeen" on the directional signpost under the "Piggabeen Road" sign at the same corner.

The Committee noted that the Piggabeen Road at Humpty Back Bridge is clearly the terminating road and should remain as the terminating street. It is considered dangerous to re-prioritise the intersection in a high speed environment.

The erection of a sign "To Piggabeen" was not agreed to as Piggabeen is not a village or town and signage to localities is not permitted under the relevant Australian Standards.

For Council's information.

7. Soorley Street, Tweed Heads South

R5150 Pt1; DW1412897; Traffic - Parking Zones

Late agenda item. A request has been received from the developer of the site for a construction zone on the Soorley Street frontage of the old Motel site. The Committee supported the request subject to the following recommendation.

RECOMMENDATION:

That temporary "Construction Zone" signage be erected on Soorley Street at the frontage to the old Motel site 20m from the intersection with Minjungbal Drive for the period of construction activity at the developer's cost.

PART B

Nil.

NEXT MEETING:

The next meeting of the Local Traffic Committee will be held 20 July 2006 in the Peter Border Room commencing at 9.00am.

The meeting closed at 10:45am.

DIRECTOR'S COMMENTS:

Nil.

DIRECTOR'S RECOMMENDATIONS:

BUSINESS ARISING

3. Kingscliff Street, Orient Street, Sutherland Street, Kingscliff

R3960 Pt1; Kingscliff Street, Sutherland Street; DW1354964; Kingscliff Public School; Traffic - Safety; Traffic - School Zones; Traffic - Pedestrian Crossing

As per the Committee's recommendation being:

That the School crossing be relocated further west on Orient Street closer to the school, subject to the Principal signing the agreement form to place the crossing flags as per the RTA Technical Direction.

3. **Prince Street - Children's Crossing**
School - Fingal Head; Traffic Safety; Pedestrian Crossings, School - Zones;
Footpaths - Request For; R4439 Pt 1; R3040 Pt2; DW 1387251

As per the Committee's recommendation being:

That a children's crossing be located on Prince Street 6m west of Letitia Spit Road, subject to the Principal signing the agreement form to place the crossing flags as per the RTA Technical Direction.

GENERAL BUSINESS

1. **Kyogle Road (Fruit Stall) between Uki and Murwillumbah**
R2970 Pt 14; DW1397931; Traffic-Safety; Roadside Stalls; Complaint

As per the Committee's recommendation being:

That this matter be referred to the Director Planning and Development to pursue:-

1. **The immediate installation of the car park in accordance with the approved car park plan.**
 2. **The status of the development in regard to the time limit on the consent.**
-

2. **Queensland Road, Murwillumbah**
R4510 Pt 1; DW1397631; Roads - Works/Construction; Traffic - Speed Zones;
Traffic - Safety; Dungay Creek Road; Tomewin Road

As per the Committee's recommendation being:

That:-

1. **Council approach the owner of the property at the intersection of Tomewin Road and Dungay Creek Road to give permission to remove vegetation to assist sight distance.**
 2. **The double centre lines be extended east at the intersection of Tomewin Road and Dungay Creek Road.**
 3. **Guideposts be erected on Tomewin Road in accordance with Council's policy.**
-

4. Double centre lines be installed on Queensland Road in locations where sight distance is below RTA specifications.
-

3. Brisbane Street, Murwillumbah
R0760 Pt 1; DW1403151; Traffic - Speed Zones; Traffic - Safety

As per the Committee's recommendation being:

That the Road Safety Officer meet with Centre Management of Sunnyside to discuss methods of improving pedestrian safety at the exit on to Brisbane Street.

5. Kyogle Road, Uki
R2970 Pt14; DW1403643; Traffic - Speed Zones; Bus Services - Routes

As per the Committee's recommendation being:

That:-

1. A 50kph speed zone be endorsed on Braeside Drive, Uki.
 2. Council writes to the Department of Transport requesting a variation of the school bus route to include Braeside Drive.
-

7. Soorley Street, Tweed Heads South
R5150 Pt1; DW1412897; Traffic - Parking Zones

As per the Committee's recommendation being:

That temporary "Construction Zone" signage be erected on Soorley Street at the frontage to the old Motel site 20m from the intersection with Minjungbal Drive for the period of construction activity at the developer's cost.

CONFIDENTIAL ITEMS FOR CONSIDERATION

REPORTS FROM THE DIRECTOR PLANNING & DEVELOPMENT IN COMMITTEE

1 [PD-CM] Draft Development Control Plan No. 55 - Seaside City

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(g) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (g) advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege

REPORTS FROM THE ACTING DIRECTOR ENGINEERING AND OPERATIONS IN COMMITTEE

2 [EO-OC] Naming of Public Road, Tagget Drive, Cudgera Creek

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(a) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (a) personnel matters concerning particular individuals (other than councillors)

3 [EO-OC] Chinderah Bay Marina

REASON FOR CONFIDENTIALITY:

This report is **CONFIDENTIAL** in accordance with Section 10A(2)(c) of the Local Government Act 1993, which permits the meeting to be closed to the public for business relating to the following: -

- (d) commercial information of a confidential nature that would, if disclosed:
 - (i) prejudice the commercial position of the person who supplied it, or
 - (ii) confer a commercial advantage on a competitor of the council, or
 - (iii) reveal a trade secret

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